



# California Regulatory Notice Register

REGISTER 2003, NO. 17-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

APRIL 25, 2003

## PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	<i>Page</i>
<i>Conflict of Interest Codes—Notice File No. Z03-0414-01</i> .....	583
<i>State Agencies: Agricultural Labor Relations Board</i>	
<i>Office of Criminal Justice Planning</i>	
TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	
<i>Conflict of Interest Codes—Notice File No. Z03-0414-02</i> .....	584
<i>State Agency: California Student Aid Commission</i>	
<i>Multi County: California Climate Action Registry</i>	
<i>California Risk Management Authority II (CRMA II)</i>	
<i>Central Valley Immunization Information System</i>	
<i>Dixon Resource Conservation District</i>	
<i>Solano/Napa Peace Officers Training Association</i>	
TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	
<i>Conflict of Interest Codes—Notice File No. Z03-0415-09</i> .....	584
<i>State Agency: Department of Developmental Services</i>	
TITLE 2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM	
<i>CalPERS Contracting Agency Termination—Notice File No. Z03-0414-06</i> .....	585
TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE	
<i>Oak Mortality Disease Control—Notice File No. Z0414-07</i> .....	587
TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE	
<i>Requirements for the Movement of Sheep and Goats—Notice File No. Z03-0410-01</i> .....	589
TITLE 4. CALIFORNIA HORSE RACING BOARD	
<i>Beat The Odds—Notice File No. Z03-0415-13</i> .....	591
TITLE 4. CALIFORNIA HORSE RACING BOARD	
<i>Prohibited Veterinary Practices—Notice File No. Z03-0415-12</i> .....	593

(Continued on next page)

***Time-  
Dated  
Material***

TITLE 5. BOARD OF EDUCATION	
<i>Reading First Program—Notice File No. Z03-0415-14</i> .....	595
TITLE 10. DEPARTMENT OF INSURANCE	
<i>Insurance Adjuster Training Regarding Earthquake Damage—Notice File No. Z03-0415-10</i> .....	597
TITLE 14. FISH AND GAME COMMISSION	
<i>Transgenic Aquatic Animal Permit Review—Notice File No. Z03-0415-05</i> .....	604
TITLE 14. FISH AND GAME COMMISSION	
<i>Winter-Run Chinook Salmon—Notice File No. Z03-0415-04</i> .....	605
TITLE 16. BOARD OF OCCUPATIONAL THERAPY	
<i>Advanced Practice—Notice File No. Z03-0415-17</i> .....	607
TITLE 16. BOARD OF OCCUPATIONAL THERAPY	
<i>Limited Permits, Fees, Disciplinary Guidelines—Notice File No. Z03-0415-18</i> .....	609
TITLE 17. DEPARTMENT OF HEALTH SERVICES	
<i>Raw Oysters—Notice File No. Z03-0403-04</i> .....	611
TITLE 20. CALIFORNIA ENERGY COMMISSION	
<i>Appliance Efficiency Regulations—Notice File No. Z03-0414-04</i> .....	614
TITLE 22. DEPARTMENT OF HEALTH SERVICES	
<i>Rate Increase for Hospital Outpatient Departments—Notice File No. Z03-0403-03</i> .....	617
TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT	
<i>Timely Job Service Registration of Unemployment Insurance Claimants—Notice File No. Z03-0415-02</i> .....	619
TITLE 23. STATE WATER RESOURCES CONTROL BOARD	
<i>Electronic Submittal of Information—Notice File No. Z03-0415-11</i> .....	622
TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT	
<i>CalHOME Program—Notice File No. Z03-0415-15</i> .....	627
TITLE MPP. DEPARTMENT OF SOCIAL SERVICES	
<i>Food Stamp Reauthorization Act of 2002—Notice File No. Z03-0414-05</i> .....	630
<b>GENERAL PUBLIC INTEREST</b>	
DEPARTMENT OF CORPORATIONS	
<i>Invitation for Comments—FIL: Negotiated Sales</i> .....	632
DEPARTMENT OF FISH AND GAME	
<i>CESA Consistency Determination for Routine Highway Maintenance Activities—Riverside and San Bernardino County</i> .....	633

(Continued on next page)

---

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

DEPARTMENT OF FISH AND GAME	
<i>CESA Consistency Determination for Rolling Hills Ranch Subarea III Project for—San Diego County .....</i>	<i>633</i>
DEPARTMENT OF TOXIC SUBSTANCES CONTROL	
<i>Notice of Intent to Extend Certification and Re-Certify Hazardous Waste Environmental Technology .....</i>	<i>633</i>
DEPARTMENT OF TOXIC SUBSTANCES CONTROL	
<i>Variance—Cat Master .....</i>	<i>636</i>
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Air Toxics Hot Spots Program .....</i>	<i>636</i>

## **PROPOSITION 65**

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Public Workshop on Acrylamide .....</i>	<i>637</i>

## **SUMMARY OF REGULATORY ACTIONS**

Regulations filed with the Secretary of State .....	637
Sections Filed, December 11, 2002 to April 16, 2003 .....	640



## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

##### AMENDMENT

##### STATE AGENCIES:

Agricultural Labor Relations Board  
Office of Criminal Justice Planning

A written comment period has been established commencing on **April 25, 2003** and closing on **June 9, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention **Trish Mayer**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the

proposed conflict of interest code(s). Any written comments must be received no later than **June 9, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## **TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

### **CONFLICT OF INTEREST CODES**

#### **ADOPTION**

##### **MULTI-COUNTY**

California Climate Action Registry  
California Risk Management Authority II (CRMA II)  
Central Valley Immunization Information System  
Dixon Resource Conservation District  
Solano/Napa Peace Officers Training Association

#### **AMENDMENT**

##### **STATE AGENCY**

California Student Aid Commission

A written comment period has been established commencing on **April 25, 2003** and closing on **June 9, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 9, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

### **COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

### **EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### **AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## **TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and



87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

##### AMENDMENT

###### STATE AGENCY:

Department of Developmental Services

A written comment period has been established commencing on **April 25, 2003** and closing on **June 9, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention **Trish Mayer**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 9, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

##### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

##### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

##### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Trish Mayer**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### NOTICE OF PROPOSED REGULATORY ACTIONS

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

#### PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend sections 599.515 in Title 2 of the California Code of Regulations. This proposed regulatory action

pertains to public agency participation under the Public Employees' Medical and Hospital Care Act (PEMHCA).

#### **WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on June 9, 2003. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 326-3379; e-mail at [joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov); or mailed to the following address:

Joe Parilo, Regulations Coordinator  
California Public Employees' Retirement System  
400 P Street, Room 1120  
P.O. Box 942702  
Sacramento, California 94229-2702  
Telephone: (916) 326-3484

#### **PUBLIC HEARING**

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Health Benefits Committee:

June 17, 2003  
9:00 a.m.  
California Public Employees' Retirement System  
400 P Street  
Sacramento, California 95814

#### **ACCESS TO HEARING ROOM**

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

#### **AUTHORITY AND REFERENCE**

Government Code section 22773 grants the CalPERS Board "all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it" under PEMHCA. In addition, Government Code section 22775 empowers the CalPERS Board to adopt all necessary rules and regulations to carry out the provisions of PEMHCA, "including but not limited to establishing the scope and content of a basic health benefits plan, regulations fixing reasonable minimum standards for health benefits plans, regulations fixing the time, manner, method and procedures for determining whether approval of any plan should be withdrawn, and regulations pertaining to any other matters it may be expressly authorized or required to provide for by rule or regulation by the provisions of this part." When adopting such rules and regulations, section 22775 directs the Board to "be guided by the needs and welfare of individual employees, particular classes of

employees, and of the State, as well as prevailing practices in the field of prepaid medical and hospital care." The CalPERS Board is granted additional rulemaking authority with regard to specific sections of PEMHCA by Government Code sections 22775.5, 22777, 22810 and 22861.

This proposed action would implement, interpret and make specific Government Code section 22853..

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing section 599.515(e) allows a contracting employer to terminate PEMHCA participation when the governing body of an employer submits a resolution to CalPERS by June 1st of any given calendar year. Termination is effective at the end of the current contract year. When a resolution is received after June 1st termination will not be effective until the end of the following contract year. The proposed amendment would permit a contracting employer to submit a resolution within a reasonable period of time after the new rates are announced and the termination will be effective before those new rates take effect.

#### **EFFECT ON SMALL BUSINESS**

The proposed regulatory action does not affect small business because it applies only to public agency participation under the PEMHCA.

#### **DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500 et seq.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** CalPERS has made an initial determination that the proposed regulatory actions will not have a significant



statewide adverse economic impact directly affecting businesses, including the ability of business in California to compete with business in other states.

- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person, or business would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no significant effect on housing costs.

#### **CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

#### **CONTACT PERSONS**

Please direct inquiries concerning the substance of the proposed regulatory action to:

Gregg Kenney  
Health Benefits Division  
California Public Employees' Retirement System  
P.O. Box 942714  
Sacramento, California 94229-2714  
Telephone: (916) 326-3641  
Fax: (916) 658-1277  
E-mail: gregg\_kenney@calpers.ca.gov

Please direct requests concerning processing of this regulatory action to Joe Parilo, Regulations Coordinator, at the address shown above, or Barbara Galli at (916) 558-4098.

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation as amended, and the Initial Statement of Reasons (ISOR). A copy of

the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Joe Parilo, Regulation Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' web site at [www.calpers.ca.gov](http://www.calpers.ca.gov) under "Members, About CalPERS, Proposed Regulatory Actions."

#### **AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT**

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed amendment to the regulation after the public comment period has closed. It may further amend section 599.515 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3700, subsection (c), of the regulations in Title 3 of the California Code of Regulations pertaining to Oak Mortality Disease Control as an emergency action that was effective on March 20, 2003. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than July 18, 2003.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before June 9, 2003.

#### INFORMATIVE DIGEST//POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations, as he deems necessary, to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code Section 5322).

The amendment of Section 3700(c) established that leaves of camellia, *Camellia japonica*; plants and plant parts (except seed) of andromeda, *Pieris formosa*, and rhododendron, *Rhododendron* spp., including azalea; and plants and stems of laurustinus, *Viburnum tinus*, are included as regulated articles and commodities. The effect of the amendment is to provide authority for the State to regulate movement of hosts or potential carriers of the disease within and from the regulated area to prevent artificial spread of the pest to non-infested areas to protect California's agricultural industry. There is no existing, comparable federal regulation or statute regarding intrastate movement of regulated articles and commodities.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3700 does impose a mandate on local agencies, but not on school districts. Reimbursement will be made for costs resulting from this mandate from the \$492,235 budgeted for this purpose.

The Department has also determined that the amended regulation will involve no additional costs or savings to any state agency because funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code, funds for reimbursement for costs to local agencies have already been appropriated, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant,

statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or business could incur costs of approximately \$200 per year in reasonable compliance with the proposed action.

#### ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY

The Department amended Section 3700, subsection (c) pursuant to the authority vested by Sections 407, 5321 and 5322 of the Food and Agricultural Code of California.

#### REFERENCE

The Department amended Section 3700, subsection (c) to implement, interpret and make specific Sections 24.5, 5321 and 5322 of the Food and Agricultural Code; Sections 11425.50 and 11440.10, Government Code; Section 1084 *et seq.*, Code of Civil Procedure.

#### EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

#### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and

Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov).

In his absence, you may contact Kris Peeples at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of amendment by contacting the agency officer (contact) named herein.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture (herein after referred to as "Department") is proposing to take the action described in the Informative Digest.

A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by 5:00 p.m. on **June 9, 2003**.

Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as de-

scribed below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 407 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9561 and 9562 of said Code, the Department proposes to repeal existing Article 3.5, amend Article 3, and add sections 760 through 760.9 to Chapter 2, Division 2, of Title 3 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this state. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans.

Existing Articles 3 and 3.5, et seq., of Chapter 2, Division 2, of Title 3 of the California Code of Regulations, sets forth the requirements for the movement of sheep into and within the state to prevent the introduction and spread of sheep scabies and scrapie diseases in California and potentially the United States.

This proposal repeals section 760, Article 3.5 and section 765, amends Article 3, and adds new sections 760 through 760.9 to update the requirements for the interstate and intrastate movement of sheep, and adds requirements for goats, pursuant to 9 CFR Part 79 (1/1/02 Edition). The revised requirements are needed for California to maintain its national status as a "consistent state", meaning that it is in compliance with federal regulations for the prevention or elimination of diseases specific to sheep and goats that could ultimately adversely affect human health and the state's agricultural industry. The intent of these requirements is to prevent or control the spread of diseases specific to sheep and goats in California, and potentially the United States, pursuant to Food and Agricultural Code section 9561.

#### FISCAL IMPACT STATEMENTS

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None



Nondiscretionary Costs/Savings to Local Agencies:  
None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action would not have significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This proposal contains the following requirements: (1) record keeping, (2) reporting and (3) animal identification as follows:

- (1) The costs associated with the record keeping requirement can not be determined as the number and type of animals bought and sold determines the volume of record keeping and, therefore, the costs. However, the Department has determined that record keeping is a standard business practice for persons marketing livestock and necessary for the tracking or tracing of animals found to be infected with diseases having the potential to cause serious health risks to livestock in the state.
- (2) The reporting requirement does not impose any cost to persons or businesses.
- (3) The animal identification required by this proposal imposes minimal costs to businesses and persons, as the United States Department of Agriculture provides identification tags at no cost to accredited, licensed veterinarians and owners of livestock.

In making these determinations, the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, and that are known to the Department are: (1) record keeping, (2) reporting and (3) animal identification as follows:

- (1) The costs associated with the record keeping requirement can not be determined as the number and type of animals bought and sold determines the volume of record keeping and, therefore, the costs. However, the Department has determined that record keeping is a standard

business practice for persons marketing livestock and necessary for the tracking or tracing of animals found to be infected with diseases having the potential to cause serious health risks to livestock in the state.

- (2) The reporting requirement does not impose any cost to persons.
- (3) The animal identification required by this proposal imposes minimal costs to businesses and persons, as the United States Department of Agriculture provides identification tags at no cost to accredited, licensed veterinarians and owners of livestock.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

#### INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, CA 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

#### CONTACT PERSONS

Inquires concerning the substance of the proposed regulations are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst  
Address: Department of Food and Agriculture  
Animal Health and Food Safety  
Services  
1220 N Street, Room A-114  
Sacramento, CA 95814  
Telephone No.: (916) 698-3276  
Fax No.: (916) 653-4249  
E-mail address: [trodgers@cdfa.ca.gov](mailto:trodgers@cdfa.ca.gov)

The backup contact person is:

Name: Nancy Grillo, Associate Analyst  
Address: Department of Food and Agriculture  
Animal Health and Food Safety  
Services  
1220 N Street, Room A-114  
Sacramento, CA 95814  
Telephone No.: (916) 651-7280  
Fax No.: (916) 653-4249  
E-mail address: [ngrillo@cdfa.ca.gov](mailto:ngrillo@cdfa.ca.gov)

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst  
Address: Department of Food and Agriculture  
Animal Health and Food Safety  
Services  
1220 N Street, Room A-114  
Sacramento, CA 95814  
Telephone No.: (916) 698-3276  
Fax No.: (916) 653-4249  
E-mail address: [trodgers@cdfa.ca.gov](mailto:trodgers@cdfa.ca.gov)

Website Access:

Materials regarding this proposal can be found at <http://www.cdfa.ca.gov>

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO ADOPT RULE 1979.5 BEAT THE ODDS

The California Horse Racing Board (Board) proposes to adopt the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to adopt Rule 1979.5, Beat the Odds, of the California Code of Regulations, Title 4, Division 4. The proposed regulation would add a new pari-mutuel wager to those authorized by the Board. A Beat the Odds wager requires the selection of at least three winning runners that are non-favorites in at least three races on a card for a single performance. The winning runners may be from consecutive or not-consecutive races.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **10:00 a.m., Thursday, June 26, 2003**, or as soon after that as business before the Board will permit, at the **Alameda County Fair Satellite Wagering Facility, 4501 Pleasanton Avenue, Pleasanton, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on June 9, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions (B&P) Code.

Reference cited: Section 19590, B&P Code.

B&P Code Sections 19440 and 19590 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific section 19590 B&P Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A beat The Odds wager selects the non-favorite runner in at least three races on the card for a single performance. Because the wager encompasses the entire card, a patron may select non-favorites from every race, or not less than three non-favorites from consecutive or nonconsecutive races. If a patron



wishes to place multiple combinations of their wager, they may wager on more than one non-favorite in a race. The non-favorite must win in each selected race. If the favorite wins any of the designated races, all wagers that selected the race are losing wagers. The pay-out of the Beat the Odds wager is calculated by identifying wagers that correctly selected at least three winning non-favorite runners. The two-dollar win price of the winning non-favorite runners is calculated for each wager and the wager with the highest two-dollar win price totals are winners. The pool is distributed equally to holders of the winning wagers. If there are no winning Beat the Odds wagers, the entire net pool is carried over to the next performance and added to that day's net pool. If there are no Beat the Odds wagers at the last performance of the meeting, the pool is paid to Beat the Odds wagers with the highest two-dollar win-price for two races, or if there are no wagers correctly selecting two non-favorite runners, the highest two-dollar win-price is paid for one race. If the association can not pay out the pool at the last performance of the meeting, the entire net pool, including any carryover, is put in an interest bearing account until the first performance at the next race meet at the same location. This ensures the pool is eventually paid out.

If a selection is scratched, wagers including the scratched runner will be refunded. Wagers are also refunded when a scratched horse results in a wager no longer having at least three races represented. Where a scratched horse is part of the entry or the field, the wager will not be refunded if any part of the entry or field is a valid starter for pari-mutuel purposes.

Wagers selecting one of the runners in dead heats between two or more non-favorite horses will receive the two-dollar win-price for the selected winning runner. However, if one of the horses is a favorite, only those Beat the Odds wagers selecting the non-favorite receive a score equal to the two-dollar win-price. Wagers selecting the favorite lose.

If fewer than three races on a card are run, and the remainder of the card is canceled, the entire Beat the Odds pool is refunded. Any carryover is not refunded as it must be carried over until it can be paid out. If at least three of the races on a card have been run, and the remainder of the card is canceled, wagers selecting any of the completed races will be paid in accordance with subsection 1979.5(g). However, the pay-out will only be for that performance's net pool. This is because the pay-out is for a partial day. Carryovers are only paid for a full day's performance. If there are no winning wagers under the application of subsection 1979.5(g), all Beat the Odds wagers, including wagers not selecting any completed races are refunded.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed Rule will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed regulation will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to adopt Rule 1979.5 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. The Rule adds a new pari-mutuel wager to those authorized by the Board.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

## CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the

modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone: (916) 263-6033  
Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text— with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### NOTICE OF PROPOSAL TO AMEND RULE 1867

##### PROHIBITED VETERINARY PRACTICES

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

##### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1867 of the California Code or Regulations, Title 4, Division 4. The proposed amendment adds snake venom and snail venom to the list of items whose possession and/or use on the premises of a facility under the jurisdiction of the Board is prohibited.

##### PUBLIC HEARING

The Board will hold a public hearing starting at **10:00 a.m., Thursday, June 26, 2003**, or as soon after that as business before the Board will permit, at the **Alameda County Fair Satellite Wagering Facility, 4501 Pleasanton Avenue, Pleasanton, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

##### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on June 9, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### **AUTHORITY AND REFERENCE**

Authority cited: Sections 19440, 19562 and 19580, Business and Professions (B&P) Code.

Reference: Sections 19580 and 19581, B&P Code.

B&P Code Sections 19440, 19562 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific Sections 19580 and 19581, B&P Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Post-race urine and blood samples are taken and tested under the Board's comprehensive testing program. The application of available technology enhances the ability to detect a wide range of prohibited drug substances. However, there are substances that may be in use at race tracks that are difficult to detect under current laboratory testing methods. Under Rule 1867, the use or possession of specified substances for which a recognized analytical method has not been developed to detect and confirm its administration; or the use of which may endanger the health and welfare of the horse, or the safety of the rider or driver, constitutes a prohibited practice, and is in violation of the Board's rules.

Certain drugs and substances may be used as local anesthetics by injection directly into a joint or by infiltrating around a nerve. While some of these drugs and substances have a necessary medical use in a racehorse, others do not. Some drugs and substances that do not have a necessary medical use are also difficult to detect in a post race analysis. The illicit use in a lame horse of a local anesthetic that is difficult to detect in a post race sample poses a danger to the horse and rider. Snake venom and snail venom are among the substances that do not have a necessary medical use and which are difficult to detect in a post race analysis. Although snake venom and other biologic substances that may be used as nerve blocking agents are listed as class II drugs in Rule 1843.2, Classification of Drug Substances, the Board could not take action against the license of anyone found in possession of such substances on a facility under its jurisdiction as the mere possession of such substances is not prohibited. The addition of snake venom and snail venom to Rule 1867 will prohibit the possession of snake and snail venom and provide the Board with a means to take action against the license of a person found in possession of such substances.

#### **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1867 will not have a significant statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1867 will not (1) create or eliminate jobs within California (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1867 does not affect small businesses because individuals holding Board issued occupational licenses are not classified as small businesses under Government Code Section 11342.610. The rule provides that the possession and/or use of specified drugs, substances or medications for which a recognized analytical method has not been developed to detect and confirm its administration; or the use of which may endanger the health and welfare of the horse, or the safety of the rider or driver, is prohibited on the premises of a facility under the jurisdiction of the Board.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the



modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone: (916) 263-6033  
  
Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### TITLE 5. BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING

##### Reading First Program

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Thursday, June 12, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, June 9, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 94244-2720  
Telephone : (916) 319-0641  
FAX: (916) 319-0155  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)

## AUTHORITY AND REFERENCE

Authority: Sections 12001 and 33031, Education Code; 20 USC 6361 et seq. (Title I, Part B, federal No Child Left Behind Act), California's Approved Reading First Plan as approved by the United States Department of Education on August 23, 2002.

Reference: Chapter 730, Statutes of 2002; *Carmen Doe v. Wilson* (1997) 57 CalApp.4<sup>th</sup> 296, 305, and *Schenley Affiliated Brands Corp. v. Kirby* (1971) 21 Cal.App.3d 177, 194-195.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The federal Reading First Program is a competitive grant program that supports scientifically research based K-3 reading programs as defined in 20 USC 6368(6) in schools serving high poverty, low reading ability, students. The purpose of this federal program is to ensure that all students in the program read well by the end of the third grade (20 USC 6361). Funds are released to states after their state plan is reviewed by a panel of reading experts and the USDE has determined that the state plan meets all the program requirements (20 USC 6363).

In order to meet the purpose of this federal program and receive USDE approval, California's Reading First Plan requires that local education agencies (LEAs) implement one of two adopted reading programs and the accompanying professional development for teachers and principals, as well as assessments geared to the particular reading program and California's English-Language Arts Content Standards Test. This comprehensive approach will provide students with the necessary support to reach proficiency on the English-Language Arts Content Standards Test by the end of the third grade; California's equivalent to reading well by the end of the third grade. The two adopted reading programs include an additional 30-45 minutes per day of English-language development to assist English language learners to reach proficiency on the English-Language Arts Content Standards Test by the end of the third grade.

Local education agencies (LEAs) must compete for Reading First funding to conduct these comprehensive reading programs in select schools. Applicant LEAs can include between 50-75% of their eligible schools on their subgrant application. Once the subgrant application is submitted, it is scored against a rubric. Each subgrant application that receives a passing score is then reviewed for the awarding of priority points for serving high numbers of low-income students. Finally, the passing applications are ranked according to score from high to low, and funded until the federal funding is exhausted.

This regulation would affect how the amount of the grant for each approved subgrant application is calculated. Specifically it would provide that the per classroom amount of between \$6,500 and \$8,000 be applied only to classrooms that agreed to implement the full English language arts program in the adopted instructional materials in English for one hour in Kindergarten and 2.5 hours in grades 1-3, inclusive, each day. This is necessary to implement California's Approved Reading First Plan which was approved by the USDE based on California's scientifically research based adopted instructional materials in English that are aligned to California's English-Language Arts Content Standards and support students reaching proficiency on California's English-Language Arts Content Standards Test by the end of third grade.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: There is no affect on small businesses because Local Educational Agencies are the only eligible subgrantees.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.



The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Karen Steentofte, Chief Counsel  
California State Board of Education  
1430 N Street, Room 5111  
Sacramento, CA 95814  
E-mail: [ksteento@cde.ca.gov](mailto:ksteento@cde.ca.gov)  
Telephone: (916) 319-0827

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Debra Strain, Regulations Adoption Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0642.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

### TITLE 10. DEPARTMENT OF INSURANCE

45 Fremont Street, 21st Floor  
San Francisco, California 94105

#### NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

**RH 02024639**  
**April 10, 2003**

#### SUBJECT OF HEARING

A hearing will be held regarding the adoption of proposed regulations implementing, interpreting, and making specific provisions of Insurance Code Section 10089.3.

#### AUTHORITY AND REFERENCE

The Insurance Commissioner proposes to adopt specified portions of the subject regulations under the authority of Insurance Code Sections 10089.3, 12921, and 12926. The Commissioner's decision on the adoption of the regulations will implement, interpret and make specific provisions of Insurance Code Section 10089.3.

#### HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

**Date:** June 11, 2003  
**Time:** 10:00 AM–4:00 PM\*  
**Location:** Department of Insurance  
Hearing Room  
45 Fremont Street, 22<sup>nd</sup> Floor  
San Francisco, California 94105

\*This hearing will continue until all testimony has been completed or 4:00 p.m., whichever is earlier.

#### PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the scheduled public hearing. Written comments not presented at the scheduled public hearing should be addressed to the following contact person:

Debra A. Chaum, Senior Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, California 94105  
Telephone: (415) 538-4115

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Dennis Ward, Acting Chief of  
Administration and Licensing  
300 Capitol Mall, 16<sup>th</sup> Floor  
Sacramento, California 95814  
Telephone: (916) 492-3072

#### DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **4:30 p.m. June 11, 2003**. Any written materials received after that time will not be considered.

#### COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [Chaumd@insurance.ca.gov](mailto:Chaumd@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the contact person listed above at the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

#### ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed above) for the hearing in order to make special arrangements, if necessary.

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees or other reasonable expenses, in

accordance with the provisions of Subchapter 4.5, Title 10 of the California Code of Regulations, in connection with their participation in the matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA. 95814

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing listed above. Please contact the Office of the Public Advisor for further information.

#### INFORMATIVE DIGEST

##### *Summary of Existing Regulations and Policy Statement Overview*

California Insurance Code Section 10089.3(a) requires that the Department of Insurance adopt regulations setting forth standards governing the training of insurance adjusters in evaluating damage caused by earthquake. The statute specifically provides that the California Earthquake Authority shall make available to the Department of Insurance the standards used by the Authority in order for the Department to develop regulations that are consistent with standards used by the authority. Section 10089.3 goes on to provide that insurers must train and accredit adjusters regarding these standards by December 31, 2004.

The statute further specifies that after December 31, 2004 insurers that use adjusters who are not trained and accredited in accordance with these standards shall submit the names of those adjusters and the claim numbers of those claims adjusted by those adjusters to the Department of Insurance. The statute further provides that an adjuster trained and accredited by one insurer shall not be required to receive training and accreditation in order to adjust claims for a different insurer. Finally, the statute provides that an insurer using an adjuster who has been trained and accredited by another insurer shall not be required to submit the name of that adjuster to the Department of Insurance.

California Insurance Code Section 10089.3(b) provides a definition of the term "insurance adjuster" as used in California Insurance Code Section 10089.3(a). The term "insurance adjuster" specifically includes persons licensed pursuant to Chapter 1 (commencing with Section 14000) of Division 5; employees of persons licensed pursuant to Chapter 1 (commencing with Section 14000) of Division 5 who perform adjusting activities as defined in Section 14021 and employees of an insurer who perform insurance

adjusting activities as defined in Section 14021. There are no existent regulations that implement, interpret or make specific California Insurance Code Section 10089.3.

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is set forth below.

The Commissioner has determined that the adoption of regulations is necessary in order to effectively administer Insurance Code Section 10089.3. The regulations proposed herein would do the following:

- 1) Define the terms “accreditation” and “training”.
- 2) Define the terms “insurer”, “non admitted insurer”, “adjuster” and “insurance adjuster”.
- 3) Specify the content of the adjuster training required by California Insurance Code Section 10089.3(a).
- 4) Specify the accreditation that the insurer or training entity sponsored by the insurer must provide to adjusters completing training required by California Insurance Code Section 10089.3.
- 5) Specify the content of records that insurers must maintain regarding the adjuster training provided.
- 6) Specify the requirements for the maintenance and retention of records regarding adjuster training provided by insurers.
- 7) Specify the manner in which insurers must report to the Department of Insurance that they are using adjusters that have not been trained and accredited in accordance with the statute.

#### EFFECT OF PROPOSED ACTION

The major effects of the regulations are as follows:

##### Proposed section 2695.40

This section sets forth authority and purpose of the proposed regulations. This section is necessary because the enabling statute [California Insurance Code Section 10089] has been recently enacted and there are no existent regulations regarding the training of adjusters to evaluate earthquake damage. This section identifies both the authority under which these regulations are promulgated as well as the intended scope of these regulations. This section is necessary as it assists persons who may be interested in determining if these regulations are applicable or of interest.

##### Proposed subsection 2695.41 (a)

Insurance Code Section 10089.3 requires that the Department of Insurance adopt regulations setting forth standards governing the training of adjusters in evaluating damage caused by earthquake. The statute

goes on to provide that on or before December 31, 2004 the insurers shall train and accredit adjusters in accordance with these standards. The statute, however, does not define the term “accredit”. Subsection 2695.41 of the regulation provides a definition of the term “accredit” so those insurers can readily understand the obligation to accredit imposed by Insurance Code Section 10089.3.

##### Proposed subsection 2695.41 (b)

Insurance Code Section 10089.3(b) specifically defines the term “insurance adjuster” to include persons individually licensed pursuant to California Insurance Code Section 14000, employees of persons licensed pursuant to 14000, and employees of insurers who perform activities as defined in California Insurance Code 14021. Subsection 2695.41(b) reiterates this definition so that the regulated entities can understand the scope of the statute and regulations. The term “adjuster” is used throughout Insurance Code Section 10089.3(a) interchangeably with the term “insurance adjuster”; accordingly, the definition as set forth in the subsection 2695.41(b) is set forth in the alternative so that either term can be used in the proposed regulation as well.

##### Proposed subsection 2695.41 (c)

Proposed subsection 2695.41(c) sets forth a definition of the term “insurers” used in these regulations. The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters, but the statute does not specifically delineate the classifications of insurers subject to the statute. Proposed section 2695.41(c) provides such a definition and specifies that “insurer” means any admitted or nonadmitted insurer as defined in California Insurance Code Sections 23, 24 and 25 that issues a policy of insurance covering the peril of earthquake.

##### Proposed subsection 2695.41 (d)

Proposed subsection 2695.41(d) sets forth the definition of the terms “training” or “train” as used in these regulations. The enabling statute [California Insurance Code Section 10089.3] requires that the department shall adopt regulations setting forth standards governing the training of insurance adjusters. The statute goes on to mandate that on or before December 31, 2004 insurers must train and accredit adjusters in accordance with these standards. The statute, however, does not provide any definition of the term “train” or “training”. Proposed subsection 2695.41(d) provides such a definition and specifies that training means to provide a course of instruction



that meets the standards set forth in subsection 2695.42. This subsection provides needed clarity and helps to implement, interpret and makes specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters; however, the statute does not address the issue of whether or not entities other than the insurer can provide such training for adjusters on behalf of insurers. This proposed subsection mandates that every insurer shall provide training to all adjusters requesting such training and then goes on to provide that an insurer may provide the required training by sponsoring a course of instruction provided by another entity. The regulation then goes on to require that the insurer sponsoring the course of instruction ensure that the course of instruction sponsored meets all of the requirements set forth at 2695.42 (a)–(h). Finally, this subsection provides that an adjuster trained and accredited by one insurer shall not be required to be retrained and reaccredited in order to adjust claims for another insurer. This subsection provides needed clarity and helps to implement interpret and makes specific California Insurance Code Section 10089.3

Proposed subsection 2695.42 (a)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute further provides that for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations that are consistent with the authority's standards. The statute does not prescribe any particular content for the regulations to be promulgated. The California Earthquake Authority Claims Manual dated February 28, 2003 (hereinafter referred to as the CEA Claims Manual) specifically provides that all claims representatives handling claims in California must abide by the California Fair Claims Settlement Practices Regulations. The Commissioner has adopted the requirement that all adjusters be trained regarding these as a necessary element of any course of instruction because it is the current law in California that prescribes the manner in which all claims are to be handled; it is essential that all adjusters have a thorough understanding of these rules. Further this subsection is necessary because it implements, interprets and makes specific the enabling statute.

Proposed subsection 2695.42 (b)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers

shall train and accredit adjusters. The statute further provides that for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations that are consistent with the authority's standards.

The statute does not prescribe particular content for the training standards to be promulgated. The CEA Claims Manual provides a description of the manner in which scope of loss should be prepared. The Commissioner has adopted subsection 2695.42(a) which sets forth that adjusters must be trained in how to conduct a thorough examination of all parts of the property to be inspected including attics, crawlspaces, roofs, chimneys, foundations and structural areas. The subsection further provides that the adjuster must be trained in how to make a complete listing of all recent earthquake damage, building code upgrade issues and procedures to be followed if additional earthquake damage is found after repair of earthquake damage is begun.

The subsection is not identical in content to the identified section in the CEA Claims Manual, however, it imposes training requirements for adjusters that are consistent with the requirement set forth in the CEA Claims Manual: that an inspection must be thorough and well documented. This subsection is necessary to implement interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (c)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute further provides that for the purposes of this statute the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations that are consistent with the authority's standards.

The statute does not prescribe particular content for the training standards to be promulgated. The CEA Claims Manual contains a description of procedures for creating estimates of loss. Subsection 2695.42(c) is consistent but not identical to the standard provided by the CEA. This subsection of the regulation provides that an adjuster shall be trained to create or obtain an accurate estimate of all covered earthquake damage. The subsection further provides that the adjuster shall be trained regarding the appropriate level of detail and documentation necessary to support the estimate and finally the subsection requires that adjusters must be trained to reevaluate the loss estimate if the actual cost of repair differs from that of the original estimate. This

subsection is necessary to implement interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (d)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute further provides that for the purposes of this statute the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations.

The statute does not prescribe particular content for the training standards to be promulgated. The CEA Claims Manual contains a section regarding when to retain an engineer or expert [Section 7-8]. Subsection 2695.42(d) is consistent with but not identical to the identified CEA standard and provides that adjusters shall be trained how to evaluate visible damage and indicia of hidden damage to determine when to consult with an engineer or other expert. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (e)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute further provides that for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations.

The enabling statute does not prescribe particular content for the training standards to be promulgated. The CEA Claims Manual contains Section [1-9] that requires insurers participating in the CEA to fully disclose the insured's right to use the California Earthquake Mediation Program as set forth at California Insurance Code Section 10089.70 and California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5, Sections 2696.1–10. Subsection 2695.42(e) is consistent with the identified CEA standard and provides that adjusters shall be trained regarding the California Earthquake Mediation Program. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (f)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute further provides that for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop

regulations; the enabling statute does not prescribe particular content for the training standards to be promulgated.

The CEA Claims Manual contains Section [7-16]. This section requires adjusters to determine with the help of an appropriate expert whether concrete needs to be replaced or repaired by injecting epoxy or other methods. Subsection 2695.42 (f) is consistent with the identified standard in that it provides that adjusters shall be trained how to determine the differences between pre-existing cracks in the concrete of structures and new cracks caused by an earthquake. Further, this subsection requires adjusters to be trained in the methodology for determining when repair or replacement of the concrete is appropriate and proper methods for concrete repair including but not limited to injected epoxy methods. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (g)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters in evaluating earthquake damage. The statute further provides that for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations consistent with those standards; the enabling statute does not prescribe or restrict the particular content for the training standards to be promulgated. The CEA Claims Manual at Section [7-15] specifically provides that adjusters shall be trained regarding the current law regarding the obligation of the insurer to fully investigate damage that is discovered or reported after the earthquake damage claim is submitted to the CEA participating insurer. Subsection 2695.42(g) is consistent with the CEA standards in that it provides that adjusters shall be trained on the current law regarding the obligation of an insurer to investigate any damage that is discovered or reported. There is no CEA standard that specifically requires investigation of any damage reported; however, the Commissioner believes that training that imparts a general understanding of an insurer's obligation to fully investigate damage is imperative if adjusters are to thoroughly understand how to evaluate earthquake damage. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.42 (h)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters in evaluating earthquake damage. The statute further provides that



for the purposes of this section the California Earthquake Authority shall make available to the Department of Insurance the standards used by the authority in order for the Department to develop regulations consistent with those standards; the enabling statute does not prescribe or restrict the particular content for the training standards to be promulgated regarding the existence of Small Business Administration and Federal Emergency Management Administration and other similar programs intended to assist earthquake victims. The CEA Claims Manual Section [7-6] states that policyholders may need to look to the Small Business Administration for low interest loans or to FEMA for grants and that therefore, adjusters must provide documentation such as loss statements or denial of claim in a timely fashion. Subsection 2695.42(h) is consistent with the identified CEA standard in that it requires adjusters to be trained regarding the existence of Small Business Administration and Federal Emergency Management Administration programs intended to assist earthquake victims. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.43 (a)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute, however, does not specify any procedures to be followed by insurers in providing accreditation. Subsection 2695.43(a) addresses this issue and sets forth that certificates shall be provided by the insurer or training entity sponsored by the insurer to any student successfully completing the training. Subsections 2695.43 (1) and (2) set forth the basic identifying information regarding the adjuster and the course provider that must be set forth in the certificate. Subsection 2695.43 (3) provides that the certificate contain a statement certifying that the adjuster has completed training that meets the standards set forth in these regulations. Subsection 2695.43 (4) requires that both the adjuster and the trainer sign the certificate and (5) requires that the certificate contain the date training is completed. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.43 (b)

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute, however, does not specify how often the adjuster accreditation must be renewed. Subsection 2695.43(b) specifies that accreditation must be renewed every three years. This

subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.44

The enabling statute [California Insurance Code Section 10089.3] specifically mandates that insurers shall train and accredit adjusters. The statute, however, does not specify recordkeeping or record retention procedures for the insurer or training provider regarding records of adjuster training. Subsection 2695.44(a) specifically requires insurers and training providers to maintain records of all adjusters completing a training program for a period of five years. Subsection 2695.44 goes on to provide that an insurer using an adjuster to evaluate earthquake damage must maintain a record of that adjuster's accreditation for a period of five years and that the record must contain the name of the adjuster and license number (if applicable), the date training is completed and the name address and telephone number of the training entity. This subsection is necessary to implement, interpret and make specific California Insurance Code Section 10089.3.

Proposed subsection 2695.45

California Insurance Code Section 10089.3(a) requires that the Department of Insurance adopt regulations setting forth standards governing the training of insurance adjusters in evaluating damage caused by earthquake. The statute specifically provides that the California Earthquake Authority shall make available to Department of Insurance the standards used by the Authority in order for the Department to develop regulations that are consistent with standards used by the Authority. Section 10089.3 goes on to provide that insurers train and accredit adjusters regarding these standards by December 31, 2004. The statute further provides that after December 31, 2004 an insurer using one or more adjusters not trained and accredited in accordance with the statute shall submit the name of the adjuster and numbers of the claims adjusted by that adjuster to the Department of Insurance. The statute, however, does not specify any schedule for such reporting. Section 2695.45 addresses this problem in that it specifies that insurers using one or more adjusters who are not trained or accredited in accordance with the regulations shall annually submit a list of those adjusters who have not completed training to the Department of Insurance. This subsection further specifies that the first reporting period for these regulations begins January 1, 2005 and ends December 31, 2005. Insurers are required to report the specified information within 30 calendar days of the end of the reporting period.

### **MANDATES**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

### **COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

### **ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Commissioner has made an initial determination that the proposed regulations do not have a significant, statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

### **POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES**

The Commissioner has made an initial determination that a representative private person or small business may incur additional expenses as a result of these regulations. These expenses may include the value of time spent by adjusters in training as well as the value of time spent by adjusters traveling to and from training facilities.

### **FINDING OF NECESSITY**

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

### **EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA**

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

### **IMPACT ON HOUSING COSTS**

The matters proposed herein will have no significant effect on housing costs.

### **ALTERNATIVES**

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

### **IMPACT ON SMALL BUSINESS**

The Commissioner has determined that small businesses may incur additional expenses as a result of these regulations. These expenses may include the value of time spent by adjusters in training regarding these regulations as well as the value of time spent by adjusters traveling to and from training facilities.

### **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

### **TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS**

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed adoption of the regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

### **AUTOMATIC MAILING**

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

## WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find in the leftmost column the link entitled 'Legal.' Click on it. On the 'Legal' page select the 'Proposed Regulations' link, near the top of the page. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH02024639" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "10089.3"), or search by keyword ("insurance adjuster"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the Insurance Adjuster Training Standards link, and click it. Links to the documents associated with these regulations will then be displayed.

## MODIFIED LANGUAGE

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1002, 2118, 2120, 2122, 2150 and 2150.2, Fish and Game Code and to implement, interpret or make specific sections 2116–2118, 2190 and 2271, Fish and Game Code, proposes to amend Section 671.1, Title 14, California Code of Regulations, to establish review of transgenic aquatic animal permit applications.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations (Section 671.1, Title 14, CCR) provide for the Department to issue permits, with conditions, to import, export, transport, maintain,

dispose of, or use for any purpose any animal otherwise restricted by regulation, including transgenic aquatic animals, as defined.

The proposed regulatory action would require the Department to notify any interested party, who has requested that notification, upon receipt of an application for the issuance of such a permit for transgenic aquatic animals.

The proposed regulatory action would also require the Department to consider all written comments received regarding each such permit application prior to approving the permit.

The proposed regulatory action would require the Commission to review all applications approved by the Department at a regularly scheduled meeting and authorize the denial of the permit for specified cause.

The proposed regulatory action would require the Department and interested parties to complete a review of that portion of the regulations (subsection 671.1(a)(9)) specific to the issuance of permits for transgenic aquatic animals not later than May 14, 2004, and provide a summary of that review to the Commission at a regular meeting within 90 days of that date.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Riverside Marriott Hotel, 3400 Market Street, Riverside, California on Thursday, May 8, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California on June 20, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 10, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than June 20, 2003, at the hearing in Mammoth Lakes, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Dr. Ed Pert, Chief, Fisheries Program Branch, Department of Fish and Game, phone (916) 445-3616, 1812 Ninth Street,



Sacramento, CA 95814, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### TITLE 14. FISH AND GAME COMMISSION

#### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220 and 315, Fish and Game Code and to implement, interpret or make specific sections 200, 205 and 215, Fish and Game Code, proposes to amend Subsections 7.50(b)(5) and (156), Title 14, California Code of Regulations, to protect Winter-run Chinook salmon in a portion of the Mainstem Sacramento River and the mouth of the American River.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sacramento River winter-run Chinook salmon were listed as endangered by the Fish and Game Commission (Commission) on September 22, 1989. The National Marine Fisheries Service listed the run as endangered under the Federal Endangered Species Act in February 1994. Although there has been some recovery in recent years, the winter-run Chinook population remains well below levels defined for recovery of the run.

Angling regulations adopted by the Commission in 1990 for the mainstem Sacramento River were designed to prevent harvest of upstream migrating winter-run Chinook salmon and other depleted stocks. Based on the best available data at the time these regulations were implemented, the no-retention periods for Chinook salmon in the Sacramento River were expected to cover the entire period when adult winter-run would occur in these areas.

However, recent data from the Department's Central Valley Salmon and Steelhead Harvest Monitoring Project indicate that a relatively high inland sport harvest of winter-run Chinook salmon may have occurred in late December 2000 and early January 2001, immediately prior to the no-retention period.

Based on these data, an emergency regulation change was approved by the Commission on October 24, 2002, and went into effect January 1, 2003. The emergency action prohibited the retention of Chinook salmon in the Sacramento River from Bend Bridge to the Carquinez Bridge from January 1 (formerly January 15) through July 15, and in the American River from the Jibboom Street Bridge to the mouth from January 1 (formerly January 15) through July 15.

The proposed action would make permanent the emergency action approved on October 24, 2002, and would clarify the regulations by designating Red Bluff Diversion Dam (instead of Bend Bridge) as a consistent boundary between reaches identified in Sections 7.50(b)(156)(F)(G) and (H). The proposal also includes establishing a point 150 feet below the Lower Red Bluff (Sycamore) boat ramp as a reference point for defining the area closed to fishing below RBDD rather than the current point that is just a 1,375-foot measurement.

This regulation proposal also consists of an adjustment of the fishery management reaches in the main stem Sacramento River near Red Bluff that simplifies the regulations and provides more fishing opportunity for late fall-run Chinook while maintaining protection for winter-run Chinook. Current regulations define a reach from Deschutes Road Bridge (near Redding) to Bend Bridge (approximately 5 miles upstream from the town of Red Bluff), and an adjacent reach from Bend Bridge downstream to the Carquinez Bridge. The river reach downstream of Bend Bridge to the Red Bluff Diversion Dam (RBDD) consists of a salmon fishery that is more characteristic of the reach above Bend Bridge than the reach below RBDD. In addition, CWT winter-run Chinook have not been recovered in sampling efforts between RBDD and Bend Bridge. The Department recommends using RBDD as a demarcation between the upper and lower reaches described above, instead of Bend Bridge. This would allow the five miles between Red Bluff and Bend Bridge to remain open for salmon retention until January 15, while the area below RBDD would close two weeks earlier on January 1 for the protection of winter-run Chinook.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California on June 20, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 10, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than June 20, 2003, at the hearing in Mammoth Lakes,

CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Dr. Ed Pert, Chief, Fisheries Program Branch, Department of Fish and Game, phone (916) 445-3616, 1812 Ninth Street, Sacramento, CA 95814, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. Several local fishing guide services for resident trout, steelhead trout, and Chinook salmon operate in the Bay-Delta and the Sacramento River. These businesses may be impacted by the increased no-retention period for Chinook salmon proposed in this action. However, analysis in Section III indicates that



angling effort was relatively low in the January 1–14 period. Fishing regulations on the Sacramento River upstream from Red Bluff Diversion Dam would not be affected by the proposed action; regulations for resident and steelhead trout would also not be affected.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### TITLE 16. BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally, or in writing, relative to the action proposed at a hearing to be held at the Department of Consumer Affairs, 400 R Street, Suite 3020, Sacramento, California, 95814, on June 10, 2003, at 1:00 p.m. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on June 10, 2003, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2570.3 and 2570.20 of the Business and Professions Code, and to implement, interpret or make specific sections 2570.2 and 2570.3 of the Business and Professions Code, the Board is considering revising Division 39, Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 1402 (SB 1402) (Murray, Chapter 823, Statutes of 2002), which took effect January 1, 2003, identifies hand therapy, the use of physical agent modalities, and swallowing assessment, evaluation or intervention as areas of advanced practice that require post professional education and training before an occupational therapist can provide such services; specifies the subjects to be included in the education and training components for hand therapy and the use of physical agent modalities; and requires an occupational therapist seeking certification in an advanced practice to demonstrate to the board that he or she has completed the educational training and competency requirements established by the board. The purpose of the proposed regulations is to implement, interpret and make specific this legislation.

Section 4150: Existing law identifies three areas of advanced practice that require education and training beyond that which was required in the qualifying degree program and uses several terms that should be defined for clarity purposes. This regulation would define the acronym “ACOTE”, “Post professional education and training”, “Contact hour”, “Semester hour”, “Quarter unit”, “Rehabilitation of the hand, wrist, and forearm”, “Swallowing”, and “Instrumental evaluations.”

Section 4151: Existing law identifies hand therapy as an area of advanced practice that requires post professional education and training in specific subjects. This regulation would require an occupational therapist offering hand therapy services to complete 45 contact hours of coursework and 480 hours of

supervised training in the subjects named in law; require an occupational therapist using physical agent modalities in conjunction with hand therapy to meet the requirements for the use of physical agent modalities; and specify that an occupational therapist could only provide the hand therapy services he or she was competent to perform.

Section 4152: Existing law identifies the use of physical agent modalities as an area of advanced practice that requires post professional education and training in specific subjects. This regulation would require an occupational therapist using physical agent modalities to complete 30 contact hours of coursework and 240 hours of supervised training in the subjects named in law and specify that an occupational therapist could only use the physical agent modalities he or she was competent to use.

Section 4153: Existing law identifies swallowing assessment, evaluation, or intervention as an area of advanced practice. This regulation would identify the role of an occupational therapist in using instrumental evaluations as part of this advanced practice; require an occupational therapist practicing in this area to complete 45 contact hours of coursework and 240 hours of training in anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodynamic tract, the effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems, and interventions used to improve pharyngeal swallowing function; and specify that an occupational therapist could only provide those swallowing assessment, evaluation or intervention services he or she was competent to perform.

Section 4154: Existing law requires occupational therapists offering advanced practice services to complete post professional education and training. This regulation would identify the sources from which education and training could be obtained; set forth the requirements for becoming a Board approved provider; require the training component to be supervised and specify the type of supervision required; and provide that on or after January 1, 2004 or the date on which these regulations take effect, the post professional education and training must be completed within the five years immediately preceding application for certification.

Section 4155: Existing law requires an occupational therapist providing advanced practice services to demonstrate to the Board that he or she is competent to do so. This regulation would establish advanced practice certifications, require an occupational therapist seeking such certification(s) to submit a written

portfolio containing proof of completion of the education and training and specify the documentation to be included in the portfolio.

This regulation would also contain the provision that an occupational therapist performing advanced practice services on or before December 31, 2003 could apply for advanced practice certification by submitting to the Board a portfolio documenting completion of education and training substantially equivalent to the requirements of law. An occupational therapist applying for certification under this regulation would be required to submit his or her portfolio within six months of the effective date of the regulation. This regulation would also specify that, on or before December 31, 2003, an occupational therapist certified by the Hand Therapy Certification Commission would qualify for advanced practice certification in hand therapy and the use of physical agent modalities.

#### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### **AND**

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will:

Eliminate the following types of jobs: Occupational therapists currently practicing in an advanced practice area who are unable to demonstrate competency may be prohibited from continuing to offer advanced practice services.

Create the following types of businesses: Businesses may apply to become Board approved providers of advanced practice education.

Expand the following types of businesses: Businesses already approved by other health care professions to offer continuing education courses may expand into the advanced practice areas of occupational therapy.

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or the elimination of existing businesses in the State of California.

Cost Impact on Representative Private Person or Business: The cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that is known to the Board is:

An occupational therapist seeking advanced practice certification would incur costs associated with completing the post professional education and training requirements.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the regulations do not regulate small businesses, do not require reports or any other compliance activities.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Occupational Therapy, 444 North Third Street, Suite 410, Sacramento, California 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Janet Yagi  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95814  
(916) 322-3278  
(916) 445-6167 (FAX)  
**Janet\_Yagi@dca.ca.gov**

The backup contact person is:

Jeff Hanson  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95814  
(916) 324-4353  
(916) 445-6167 (FAX)  
**Jeff\_Hanson@dca.ca.gov**

Website Access: Materials regarding this proposal can be found at [www.bot.ca.gov](http://www.bot.ca.gov).

### TITLE 16. BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the actions described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the actions proposed at a hearing to be held at the Department of Consumer Affairs, 400 R Street, Suite 3020, Sacramento, California, 95814 on June 10, 2003 at 1:00 p.m. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on June 10, 2003, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the actions substantially as described below or may modify such actions if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified actions will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to these actions or who have requested notification of any changes to the actions.



## AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 2570.5, 2570.16 and 2570.20 of the Business and Professions Code, and to implement, interpret or make specific Sections 125.6, 480, 496, 2570. 5, 2570.16, 2570.27, 2570.28, 2570.29, 2570.30, 2570.31, and 2570.32 of said Code, the Board is considering changes to Division 39 of Title 16 of the California Code of Regulations as follows:

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On January 1, 2003, and September 29, 2002, Senate Bill 2021 (Figueroa, Chapter 1011, Statutes of 2001) and Senate Bill 1244 (Figueroa, Chapter 1079, Statutes of 2001), respectively, took effect, authorizing the Board to grant a limited permit to provide occupational therapy services to persons completing the education and experience requirements; charge an application processing fee up of to \$50.00; and deny, suspend, revoke, or place on probation a license, certificate, inactive license, inactive certificate or limited permit when applicable. The purpose of the proposed regulations is to clarify the basis upon which limited permits are granted; establish an application for licensure fee and delete fees no longer in effect; and establish and clarify guidelines to aid attorneys, administrative law judges and the Board in making fair and consistent rulings regarding disciplinary matters throughout the state.

Section 4123: Existing law grants authority to the Board to issue a limited permit to practice occupational therapy to persons who have completed all education and experience requirements and are waiting to take the first available examination or awaiting the announcement of the results of the examination. The proposed regulation would require a person applying for a limited permit to take and pass the National Board for Certification in Occupational Therapy (NBCOT) licensing examination within four (4) months of completing the education and experience requirements; require the applicant to forward, upon receipt from NBCOT, a copy of the Notification of Eligibility to Test to the Board; establish that the limited permit shall be valid for four months or upon receipt of a failing result, whichever occurs first; require the limited permit holder to immediately notify the Board of the results of the examination; establish that the fee submitted by the limited permit holder shall be applied towards the initial license or certificate fee in the event the limited permit holder passes the examination on his/her first attempt; and establish that the limited permit shall be cancelled and the fee forfeited, should the limited permit holder fail to pass the first examination.

Section 4130: Existing law grants authority to the Board to charge an application fee of up to \$50.00. The proposed regulation amends Section 4130 to establish a \$50.00 application processing fee and makes other technical, substantive changes by eliminating initial licensing, certification and limited permit fees that are no longer in effect.

Section 4144: Existing law grants authority to the Board to take disciplinary action against licensees. The proposed regulation would establish disciplinary guidelines to aid attorneys, administrative law judges and the Board in rendering consistent and fair rulings regarding disciplinary matters throughout the state. The proposed disciplinary guidelines provide minimum and maximum penalties for various violations of the Occupational Therapy Practice Act, as well as standard and optional probationary terms when probation is deemed the appropriate sanction.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory actions would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business in other states.

The following studies/relevant data were relied upon in making the above determination:

The proposed regulations do not directly regulate small businesses, do not require reports or any other compliance activities.

Impact on Jobs/New Businesses: The Board has determined that these regulatory proposals will not have any impact on the creation of jobs or new business or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact or Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed actions.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small business because



the regulations do not regulate small businesses, do not require reports or any other compliance activities.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative to the regulations would either be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposals described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed actions and has available all the information upon which the proposals are based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposals are based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Occupational Therapy, 444 North Third Street, Suite 410, Sacramento, California 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below (or by accessing the website listed below).

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Janet Yagi  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95814  
(916) 322-3278  
(916) 445-6167 (FAX)  
**Janet\_Yagi@dca.ca.gov**

The backup contact person is:

Jeff Hanson  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95814

(916) 324-4353

(916) 445-6167 (FAX)

**Janet\_Yagi@dca.ca.gov**

Website Access: Materials regarding this proposal can be found at **www.bot.ca.gov**.

## TITLE 17. DEPARTMENT OF HEALTH SERVICES

### ACTION

Notice of Emergency Rulemaking  
Title 17, California Code of Regulations

### SUBJECT

Raw Oysters, **R-33-02E**

### PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct a public hearing commencing at 10 a.m. on June 11, 2003 in the auditorium at 714 P Street, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on June 13, 2003, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

### CONTACTS

**In any of the following inquiries, please identify the action by using the Department regulation control number, R-33-02E:**

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the emergency regulations described in this notice may be directed to James M. Waddell, Chief of the Food & Drug Branch at (916) 445-2264
3. All other inquiries concerning the action described in this notice may be directed to Chuck Smith of

the Office of Regulations at (916) 657-0730, or to the designated backup contact person, Allison Branscombe, Chief of the Office of Regulations, at (916) 657-0692.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Sherman Food, Drug and Cosmetic Law (Sherman Law)—(Health and Safety Code Section 109875 et seq.) gives the California Department of Health Services (DHS) authority to adopt regulations governing the production, labeling, advertising and sale of foods, including raw oysters. Division 104, Part 6, Chapter 5, Section 112150 et seq. of the Health and Safety Code (Sanitary Control of Shellfish) gives DHS authority to adopt regulations governing the harvesting, labeling, transporting, storing and sale of shellfish, including raw oysters. The California Uniform Retail Food Facilities Law (CURFFL—Health and Safety Code Section 113700 et seq.) gives DHS authority to adopt regulations governing the operations of retail food facilities (e.g., restaurants and markets) including those that serve or sell raw oysters. The major purpose of these laws is to assure the safety of California's food supply and to protect the public from avoidable food safety risks, including illnesses and deaths.

In 1991, under the authority of these statutes, DHS adopted Section 13675 in Title 17 of the California Code of Regulations. The purpose of this regulation is to decrease illnesses and deaths in at-risk persons in California who eat raw oysters contaminated with *Vibrio vulnificus* (*V. vulnificus*) bacteria that are naturally present in oyster growing waters. Since 1988, virtually all of the illnesses and deaths in California were associated with raw oysters harvested from the Gulf States of Alabama, Florida, Louisiana, Mississippi and Texas (Gulf Coast) during the warmer summer months of April through October (where the source of contaminated oysters could be traced). Three illnesses occurred in November, but consumption of oysters harvested in October may have occurred in each case.

Section 13675 requires: 1) a retail food facility, as defined, which sells raw Gulf Coast oysters (e.g., shellstock or on the half-shell) to provide a written warning alerting at-risk persons that consuming the raw oysters may cause illness or death; 2) a retail food facility to refuse to accept any container of raw oysters that does not clearly show the source of the oysters; 3) a retail food facility to retain for 90 days specified

records showing the source of raw oysters; and 4) a raw oyster harvester and shipper to provide specific information to retail food facilities about the source of the oysters. Section 13675 specifies the wording of the required warning, the manner by which the warning is to be presented, and the information that must accompany each container of raw oysters.

In 1997 (when illnesses and deaths did not decrease), DHS amended Section 13675. During 1997, DHS became aware that a large number of victims were Spanish-speaking. Thereafter, Section 13675 required the warnings to be also given in Spanish (prior to this, only English language warnings were required). The warnings were also required to be more prominent. Since post-harvest treatments were also beginning to be developed to significantly decrease or eliminate the risk of illnesses and deaths from raw Gulf Coast oysters, the amendments included provisions for the Department to grant exemptions from the warning for oysters undergoing treatment by a process that has been scientifically validated to reduce *V. vulnificus* to "non-detectable" levels.

For the past eighteen years consumer education, including the warning required by Section 13675, has been the primary strategy used by the U.S. Food and Drug Administration (FDA), the Interstate Shellfish Sanitation Conference (ISSC) [an FDA cooperative program established in 1982 to promote the adoption of national standards, regulations, procedures and other rules for assuring shellfish safety], the states and local health agencies, to reduce illness and death caused by consuming raw oysters contaminated with *V. vulnificus*. However, education and traditional food safety control measures (e.g., time and temperature controls) have not resulted in a decrease in the number of illnesses and deaths from *V. vulnificus*.

Scientifically validated post-harvest oyster treatments have now become available that reduce *V. vulnificus* in oysters to a "non-detectable" level. DHS has granted exemptions pursuant to Section 13675 for two post-harvest treatments (low temperature pasteurization and freezing) voluntarily being used by some raw Gulf Coast oyster producers. A third treatment (high hydrostatic pressure), also in voluntary use, has been scientifically validated and the dealer has indicated their intention of requesting an exemption from the warning required by Section 13675. Other post-harvest treatment processes are being investigated and a petition for the use of irradiation to treat raw oysters has been submitted to the FDA for approval.

However, most raw Gulf Coast oysters are not currently treated. Short of prohibiting the sale of raw Gulf Coast oysters in California, post-harvest treat-

ments in conjunction with labeling requirements for shucked oysters, offer the most effective strategy for decreasing illnesses and deaths.

Accordingly, DHS has amended Section 13675 of Title 17, California Code of Regulations, in order to restrict the sale in California of raw Gulf Coast oysters harvested during April through October unless the oysters are processed with a scientifically validated process to reduce *V. vulnificus* to "non-detectable" levels and prominently labeled with a statement to that fact. To protect public health, raw Gulf oysters that fail to meet these requirements during April through October shall be deemed adulterated. Although DHS is unaware of any *V. vulnificus* illnesses associated with the consumption of fresh raw Gulf oysters that have been completely shucked and packed in containers, a provision has been added to require shucked Gulf oysters that have not been processed with a scientifically validated process to reduce *V. vulnificus* to "non-detectable" levels be labeled for "cooking only" in order to further protect against the possibility that raw shucked Gulf oysters could cause illness and death if eaten raw. Section 13675 will retain the requirements imposed in 1991 and 1997. The states most affected by the restrictions are Florida, Louisiana and Texas (due to resource conservation reasons, Alabama and Mississippi do not harvest oysters during the summer months).

DHS has also adopted a new Section 13676 to establish a procedure whereby dealers may receive verification by the department that oysters supplied by the dealer are subjected to an oyster treatment process. This verification is required for retailers and dealers to sell raw Gulf oysters during the months April through October.

#### AUTHORITY

Section 15376, Government Code; Sections 100275, 110065, 110105, 110430, 112165, and 113710, Health and Safety Code.

#### REFERENCE

Sections 110175, 110435, 110545, 110660, 112165(c), 112195, 112200, and 113980, Health and Safety Code.

#### FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: No additional costs or savings.
- B. Fiscal Effect on State Government: Nominal additional expenditures in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
- C. Fiscal Effect on Federal Funding of State Programs: No fiscal impact exists.

- D. All cost impacts, known to the Department at the time the notice of emergency action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the emergency action: Depending on the treatment used, it is estimated that the cost of processing raw oysters would range from 3.3 to 17.7 cents per oyster. The cost for shucking, packing and labeling Gulf Coast oysters is unknown. However, it is anticipated that the processing costs would be reduced over time and would result in greater product stability. Additionally, production of safer Gulf Coast oysters could encourage sales to persons who are now reluctant to eat raw oysters and reduce the liability of Gulf Coast oyster producers.

- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

#### DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of the emergency regulations. A copy of the initial statement of reasons and a copy of the text of the emergency regulations are available upon request by writing to the Office of Regulations at the address



noted above, which address will also be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the emergency regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

#### **ADDITIONAL STATEMENTS AND COMMENTS**

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than the emergency action.

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email ([civilrights-ra@dhs.ca.gov](mailto:civilrights-ra@dhs.ca.gov)).

## **TITLE 20. CALIFORNIA ENERGY COMMISSION**

#### **NOTICE IS HEREBY GIVEN**

The California Energy Commission (Commission), on March 19, 2003, adopted amendments to its Appliance Efficiency Regulations on an emergency basis. The Commission is proposing to re-adopt identical amendments on a non-emergency basis. The amendments are to regulations in Chapter 2, Subchapter 4, Article 4, Sections 1601–1608 of Title 20 of the California Code of Regulations.

#### **PUBLIC HEARING**

The Commission will consider adopting the proposed amendments at a public hearing:

Wednesday, June 25, 2003  
10:00 AM  
California Energy Commission  
Hearing Room A  
1516 Ninth Street  
Sacramento, California  
(Wheelchair accessible)

At the hearing any interested person may make oral comments on the proposed amendments.

#### **WRITTEN COMMENTS**

Any interested person may submit written comments on the proposed amendments. In order to be considered at the Commission adoption hearing, written comments must be received no later than 3:00 p.m. on Tuesday, June 24, 2003. Written comments shall be mailed to the following address:

Docket No. **03-APPL-01**  
Docket Office  
California Energy Commission  
1516 Ninth Street, Mail Station 4  
Sacramento, California 95814-5512

All written comments shall be titled "Docket No. **03-APPL-01**"

#### **AVAILABILITY OF MODIFIED AMENDMENTS**

Following the Committee hearing and the written comment period, the Commission may adopt the proposed amendments substantially as described in this notice. If modifications are made, and they are sufficiently related to the originally-proposed amendments, the full modified text with changes clearly indicated will be made available to the public at least 15 days before the Commission adopts the amendments. A notice of the availability of any such text will be mailed to all the persons to whom this notice is being mailed; in addition, copies may be requested from the contact person identified below. The Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public.

#### **AUTHORITY AND REFERENCE**

The Commission proposes to adopt the amendments under the authority of Public Resources Code Sections 25213, 25218(e), 25402(a)–(c), and 25553(b), Government Code 6253(a). The proposed amendments would implement, interpret, and make specific Public Resources Code Sections 25216.5(d), 25402(a)–(c), 25553(b), and 25960.



INFORMATIVE DIGEST AND  
PLAIN ENGLISH STATEMENT

Existing law (Public Resources Code Section, 25402(c)) requires the Commission to adopt regulations that prescribe minimum efficiency levels for appliances. The standards must be feasible and cost-effective.

The Commission first adopted appliance standards, and related definitions, test methods, information-submittal requirements, and compliance and enforcement rules, in 1976 and has periodically revised them since then. The Commission's current regulations were adopted on February 6, 2002 and became effective on November 27, 2002. The emergency amendments were adopted on March 19, 2003 and became effective on April 1, 2003.

The proposed amendments that are the subject of this notice include the following improvements:

- Section 1601 is being changed to clarify that the provisions of the standards apply only to units manufactured on or after the effective date of each provision. They do not apply to units manufactured before those dates but sold after those dates.
- Section 1602 is being changed to modify definitions. These changes are taken from federal regulations adopted since the California February 6, 2002 adoption. The new text matches the current federal regulations.
- Section 1603 is being changed to clarify that the provisions only apply to appliances for which certification documents are submitted on or after November 27, 2002. They do not apply to units certified to the Commission before that date.
- Sections 1603, 1605.3, and 1606 are being changed to indicate that the test for certain small water heaters is voluntary and not mandatory.
- Section 1604 is being changed to correct several minor editorial errors.
- Section 1605.1 is being changed to update Table C-2. The data in this table are taken from federal regulations that have changed since the February 6, 2002 California adoption. The new text matches the current federal regulations.
- Section 1606 is being changed in three ways:

The first paragraph is being changed to indicate that data in the current active database before the November 27, 2002 effective date of the regulations remains certified until various specified future dates.

Table U, which lists the various information that must be reported by manufacturers, is being changed to make editorial clarifications and techni-

cal changes. It is also being changed to indicate that the reporting of certain data is voluntary and not mandatory.

This section is also being changed to clarify the wording that describes how numerical data must be reported.

- Section 1607 is being changed to reduce the burden on manufacturers of certain marking provisions.
- Section 1608 is being changed to clarify that the sale of appliances that do not comply with the current federal efficiency standards is not forbidden by state law, but only by federal law.

With the very minor exception of the change to Section 1605.3 for the standard for very small water heaters, which will become voluntary, none of the changes alter the scope of the regulations, the methods of test, or the levels of minimum performance standards. (All such water heaters currently comply with the standard.)

ECONOMIC, FISCAL, AND  
ENVIRONMENTAL IMPACTS

Comments are welcome on all of these matters (as well as on any other matters set forth in this Notice).

**Significant Adverse Economic Impact on Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States**

The agency has initially determined that there will be no significant (or insignificant) statewide adverse economic, fiscal or environmental impact on businesses, including small businesses, since there are no significant changes to the substantive parts of the regulations. The proposed changes to the regulations will not make affected appliances sold or offered for sale in California (thus installed in California) either more or less energy efficient. This means that neither the initial cost of appliances nor monthly energy use will be changed.

**Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California**

The proposed changes to the regulations will have no impact on jobs within the State. The proposed changes to the regulations are not expected to create new businesses, or eliminate existing businesses. The changes to the regulations will have no affect on the expansion of businesses in California. The agency is not aware of any cost impacts on representative businesses.

### **Potential Cost Impact on Private Persons**

The proposed changes to the regulations will have no cost impact on private persons within the State. The agency is not aware of any cost impact on representative persons.

### **Fiscal Impact on Public Agencies**

#### **1. Costs to State Agencies**

The proposed changes to the regulations will impose no costs and produce no significant savings on state agencies.

#### **2. Costs and Mandates for Local Agencies and School Districts**

The proposed changes to the regulations will impose no mandates or costs on local agencies or school districts.

#### **3. Costs Required to be Reimbursed**

The proposed changes to the regulations will impose no costs to any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

#### **4. The proposed changes to the regulations will result in no costs or saving in federal funding to the state.**

#### **5. The proposed changes to the regulations will result in no other non-discretionary costs or savings for any local agency, school district, or state agency.**

### **Effects on Housing Costs**

The proposed changes to the regulations will have no effect on housing costs.

### **Effects on Small Businesses**

The proposed changes to the regulations will have no significant effect on small business. Any possible effect would be positive and would reduce the cost of marking appliances for small appliance manufacturers.

### **Environmental Impact**

The proposed changes to the regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment and therefore are not subject to the California Environmental Quality Act.

### **ALTERNATIVES**

Before it adopts the proposed amendments (or any other regulations), the Commission must determine that no reasonable alternative it considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed amendments. The Commission has found no alternatives to the proposed action that would be more effective in carrying out these largely administrative amendments.

### **AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS AND OF THE INITIAL STATEMENT OF REASONS**

The Express Terms of the proposed amendments, written in plain English and set forth in a format that indicates both the existing text and the proposed text, are available at no cost from the contact person named below. In addition, the Commission has prepared an Initial Statement of Reasons for the proposed amendments, and it has available all of the information upon which the proposal is based; they are also available at no cost from the Contact Person. The Contact Person will also make available any other documents contained in the rulemaking file.

**Documents prepared by the Commission for this rulemaking will be posted on the Commission's website, [http://www.energy.ca.gov/appliances\\_rulemaking/](http://www.energy.ca.gov/appliances_rulemaking/)**

### **CONTACT PERSON**

Please contact the following person, preferably by e-mail, for information about the proposed amendments or to obtain any document relevant to the proceeding, including the Express Terms, the Initial Statement of Reasons, and any other document in the rulemaking file:

Linda Franklin  
California Energy Commission  
1516 Ninth Street, Mail Station 26  
Sacramento, California 95814-5512  
Telephone: 916-654-4008  
Fax: 916-654-4304  
E-mail: [lfrankli@energy.state.ca.us](mailto:lfrankli@energy.state.ca.us)

Commenters and participants should be aware that any of the proposed amendments to the regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from the Commissioners. If the Commission considers adopting changes to the proposed amendments, it will make the language of the modified amendments available to the public at least 15 days prior to adoption, as required by Government Code Section 11346.8(c). A request for a copy of any modified amendments should be addressed to Linda Franklin at the Commission using the address, phone number, or e-mail address provided above. Please also contact Ms. Franklin for copies of the Final Statement of Reasons, which will be prepared if the Commission adopts the proposed amendments.

In addition, the Commission has a Public Adviser whose function it is to assist the public in participating in Commission proceedings. Please contact her if you have general questions about how to function effectively in the rulemaking:

Roberta E. Mendonca, Public Adviser  
California Energy Commission  
1516 Ninth Street, Mail Station 12  
Sacramento, California 95814-5512  
Telephone: 916-654-4489  
Fax: 916-654-4493  
E-mail: RMendonc@energy.state.ca.us

## TITLE 22. DEPARTMENT OF HEALTH SERVICES

### ACTION

Notice of Emergency Rulemaking

Title 22, California Code of Regulations

### SUBJECT

Rate Increase for Hospital Outpatient Departments,  
**R-25-01E**

### PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct a public hearing commencing at 10:00 a.m. on June 11, 2003 in the auditorium at 714 P Street, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on June 13, 2003, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

### CONTACTS

**In any of the following inquiries, please identify the action by using the Department regulation control number, R-25-01E:**

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the emergency regulations described in this notice may be directed

to Christine Brown of the Medi-Cal Policy Division at (916) 654-6240.

3. All other inquiries concerning the action described in this notice may be directed to Michelle Tedrow of the Office of Regulations at (916) 653-1747, or to the designated backup contact person, Charles E. Smith, of the Office of Regulations, at (916) 657-0730.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Welfare and Institutions (W&I) Code Section 14124.5 authorizes the director of the Department of Health Services to adopt, amend or repeal regulations as necessary and proper to carry out the purposes of and intent of the statutes governing the Medi-Cal program.

W&I Code § 14105 (a) requires the Department to adopt regulations that include the rates of reimbursement that the Medi-Cal program pays for services within the Medi-Cal schedule of benefits set forth in W&I Code § 14132. Hospital outpatient services are included in the Medi-Cal program's schedule of benefits. W&I Code § 14105 further provides that rate regulations shall be deemed an emergency and necessary for the immediate preservation of the public and peace, health, and safety or general welfare.

This rulemaking amends section 51509, title 22, California Code of Regulations to increase rates for most hospital outpatient services by 30 percent for services provided on or after July 1, 2001. The amendment also provides for rate increases of 3-1/3 percent for hospital outpatient services beginning July 1 of each of the next three subsequent fiscal years (2002/2003, 2003/2004, and 2004/2005) to be applied to the rates paid during the preceding fiscal year. The objective of this amendment is to comply with judgments issued against the Department in the lawsuits in which the plaintiffs contended that the rates for these services violated federal law.

The exceptions to the rate increase are:

- a. The rate increase shall not be paid on claims for services that are paid on a cost-basis, including, but not limited to, federally qualified health center ("FQHC") services, and medical items and equipment that are paid a rate equal to or greater than a provider's acquisition cost or the manufacturer's suggested retail price.
- b. The rate increase shall not be paid on any portion of a claim for drugs or medical supplies dispensed to



outpatients and paid in accord with title 22, California Code of Regulations, sections 51513 and 51520.

- c. Pursuant to title 42, United States Code, section 1396b(i)(7), reimbursement for clinical diagnostic laboratory tests shall not exceed the amount recognized under title 42, United States Code, section 1395I(h) for such tests under Part B of the Medicare program. The rate increase paid for such tests shall not exceed the difference between the June 30, 2001, payment rate and the amount recognized under title 42, United States Code, section 1395I(h) for such tests under Part B of the Medicare program.

Language is also being added to the section in order to clarify long-standing policy that Medi-Cal pays a provider's usual charge to the general public, not to exceed the maximum reimbursement rates contained in regulation.

#### Orders and Judgments:

- 1) *San Bernardino County, et al. v. State Department of Health Services* Los Angeles County Superior Court Case No. C753710, and *Barlow Respiratory Hospital, et al. v. State Department of Health Services*, Sacramento County Superior Court, Case No. 530182.
- 2) *Orthopaedic Hospital and the California Association of Hospitals and Health Systems v. Kizer*, U.S. District Court, Central District, Case No. 90-4209 SVW.
- 3) *Orthopaedic Hospital and the California Association of Hospitals and Health Systems v. Belshé*, U.S. District Court, Central District, Case No. CV 94-4764 SVW.
- 4) *Orthopaedic Hospital and the California Association of Hospitals and Health System v. Belshé*, U.S. District Court, Central District, Case No. CV 94-4825 SVW.

#### AUTHORITY

Section 1188.877, Health and Safety Code; and Sections 10725, 14105, 14105.97 and 14124.5, Welfare and Institutions Code.

#### REFERENCE

Section 1188.877, Health and Safety Code; Sections 14087.3 and 14132, Welfare and Institutions Code; Statutes of 1982, Chapter 1594, Section 77; Statutes of 1983, Chapter 323, Section 149, Statutes of 1984, Chapter 258, Items 4260-106-001 and 890; Statutes of 1984, Chapter 268, Section 66; Statutes of 1985, Chapter 111, Items 4260-106-001 and 890; Section 14105.97, Welfare and Institutions Code; Statutes of

1998, Chapter 324, Items 4260-101-0001 and 0890; and Statutes of 2000, Chapter 52, Items 4260-101-0001.

#### FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: No fiscal impact exists.
- B. Fiscal Effect on State Government: Additional expenditures for the four affected State Fiscal Years of approximately \$99,629,00 for Fiscal Year (FY) 2001-02, \$113,909,000 for FY 2002-03, \$129,327,000 for FY 2003-04, and \$144,263,000 for FY 2004-05. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
- C. Fiscal Effect on Federal Funding of State Programs: Additional expenditures of approximately \$49,815,00 in FY 2001-02, \$56,954,000 in FY 2002-03, \$64,884,000 in FY 2003-04, and \$72,132,000 in FY 2004-05. The Medi-Cal program is able to absorb these additional costs within the existing budgets and resources.
- D. All cost impacts, known to the Department at the time the notice of emergency action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the emergency action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the emergency action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

#### DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Provider participation in the Medi-Cal program is voluntary; there is no statutory mandate for providers to provide services to Medi-Cal beneficiaries. The proposed changes will not result in any new reporting, compliance or record keeping requirements for providers participating in the Medi-Cal program. This rate increase will not alter the scope of Medi-Cal program benefits.



The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of the emergency regulations. A copy of the initial statement of reasons and a copy of the text of the emergency regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the emergency regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

#### ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than the emergency action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than

15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email ([civilrights-ra@dhs.ca.gov](mailto:civilrights-ra@dhs.ca.gov)).

## TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

### Amendment of Title 22, California Code of Regulations, Sections 1251-1 and 1253(b)-1

#### TIMELY JOB SERVICE REGISTRATION OF UNEMPLOYMENT INSURANCE CLAIMANTS

#### NOTICE OF PROPOSED RULEMAKING

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), Title 22, Sections 1251-1 and 1253(b)-1, to require unemployment insurance (UI) claimants to register for employment services with the Department.

The Department will adopt these proposed amendments after considering all comments, objections, or recommendations regarding the proposed action.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department must provide employment assistance services and administer UI benefits according to federal law. After passage of the Wagner-Peyser Act of 1933 [29 U.S.C. § 49], each state was required to establish an employment service program and to coordinate its functions with the UI program in order to receive its administrative allotment of federal administrative funding. Subsequent legislation helped to create a system of federal and state laws that laid the foundation for state UI and Job Service (JS) programs.

- The Social Security Act (SSA) of 1935 [42 U.S.C. § 301 *et seq.*] implemented through the subsequent Federal Unemployment Tax Act (FUTA) [26 U.S.C. § 23], created the state-federal partnership responsible for administering the UI program. States must conform to the requirements of these laws or face possible loss of federal administrative funding and federal tax credits to employers.
- The Workforce Investment Act (WIA) of 1998 (*Pub.L. No. 105-220*), requires states to deliver basic employment services with community part-

ners through a system of offices called One-Stops. These partnerships are usually comprised of Department staff working in conjunction with local government agencies or non-profit agencies in one location to provide just service assistance in the form of counseling, workshops, and access to the CalJOBS system.

The UI eligibility requirements are contained in Article 1 (commencing with Section 1253) of Chapter 5, of Part 1 of the California Unemployment Insurance Code (hereinafter, Code). Section 1253(b) of the Code stipulates that a claimant is eligible to receive UI benefits if, while meeting all other requirements of the Code, "He or she has registered for work . . . at a public employment office or any other place as the director may approve. . . ." Subsection (e) of Section 1253 states that a claimant must conduct a search for suitable work in accordance with specific and reasonable instructions of a public employment office. These statutes are further defined and expanded in CCR, Title 22, Section 1253(b)-1, titled Registration for Work, which states in subsection (a), in part, that "a claimant shall register for work only by personally reporting at a department field or branch office or at such other place as the department may approve, and by completing a written registration for work."

These proposed amendments are needed because Department processes and procedures for employment registration have undergone enormous changes since 1982, when CCR, Title 22, Section 1253(b)-1 was last revised. The consolidation of employment offices, along with the common availability of personal computers and the advent of the Internet have led the Department to move many of its processes to the Internet. The Department created CalJOBS, an Internet-based job search system that allows employers to submit notices about job openings for which job seekers may apply. Job seekers may also submit information normally found on a resume, which employers may view. CalJOBS is now the only employment assistance registration database maintained by the Department. A job seeker may access CalJOBS through any Internet-connected terminal to register for employment with the Department. The only in-person registration offered is limited to job seekers accessing CalJOBS through the computers available at One-Stop offices.

Compounding the need for these proposed amendments are changes the Department recently made to its claim filing and employment assistance registration processes. A recent audit by the U.S. Department of Labor (USDOL) found the Department had insufficient means of ensuring that eligible UI claimants registered for work with the Department. Although

claimants have always been advised both at the time of claim filing and in Department literature to seek work, the Department had no means of verifying claimant registration in CalJOBS. This insufficiency, if allowed to continue, would compromise the Department's service delivery and potentially threaten the Department's federal funding and the federal tax benefits for California employers. Of particular importance is the adverse impact on the welfare of UI claimants who need the Department's employment assistance offered through CalJOBS.

In response to the finding, the Department instituted changes to its UI claim filing and work registration processes that allow the Department to begin the work registration at the time of claim filing. When a new claim is filed in the Department's automated system, essential personal information about a claimant (name, address, telephone number) entered on the automated claim record is electronically transferred to CalJOBS to create a starter record. Claimants are notified in writing that they have 21 days from the date of notification to complete the registration record and to enter a resume in CalJOBS. Claimants, who fail to register within the 21-day period, could be disqualified from eligibility for UI benefits until the claimant completes the CalJOBS registration.

The Department seeks to amend portions of CCR, Title 22, governing work registration requirements so that the regulatory language reflects current procedure and policy.

#### AUTHORITY AND REFERENCE

Authority: Sections 305 and 306, Unemployment Insurance Code.

Reference: Sections 1251 and 1253(b), Unemployment Insurance Code.

#### FISCAL IMPACT

**Anticipated costs or savings in federal funding to the State:** None

**Anticipated costs or savings to any State Agency:** None

**Anticipated costs or savings to any local agency or school district:** None

**Significant statewide adverse economic impact:** The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

**The costs impact on representative persons or businesses:** The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Anticipated impact on housing costs:** These proposed amendments will have no effect on housing costs.

**Anticipated nondiscretionary costs or savings imposed upon local agencies:** None

**Small Business Impact:** The Department has determined the proposed regulatory action will have no impact on small businesses as the proposed regulatory action will not impose any new mandates, requirements or cost from the enforcement of this regulation on small businesses.

**Local Mandate Determination:** The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

**Consideration of Alternatives:** In accordance with Section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory amendments.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). E-mail comments must include true name and mailing address of the commentor. **Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than June 9, 2003, at 5 p.m.** Please submit any written comments before that time.

The Department cannot accept written comments after the close of the public comment period.

#### CONTACT PERSONS

Inquiries or comments should be directed to:

Name: Laura Colozzi  
Employment Development  
Department  
Street address: 800 Capitol Mall, Room 5020  
Legal Office, MIC 53  
Sacramento, CA 95814  
Mailing address: P. O. Box 826880  
Legal Office, MIC 53  
Sacramento, CA 94280-0001  
Telephone No.: (916) 654-7712  
Fax No.: (916) 654-9069  
E-Mail Address: [eddlegal@edd.ca.gov](mailto:eddlegal@edd.ca.gov)

**Note:** In the event Laura Colozzi is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers  
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Glenn Jones  
Telephone No.: (916) 654-8410

#### INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

#### PUBLIC HEARING

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on June 9, 2003.** A request for hearing can be made by contacting the persons noted above.

#### MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.



**FINAL STATEMENT OF REASONS**

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

**FURTHER INFORMATION**

The Department has prepared and has available for review, upon request, the text of the proposed regulatory amendments discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the amendments; and the information upon which the Department relied in proposing the amendments. (If you received this notice by mail, a copy of the text of the proposed amendments and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed amendments are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

**TITLE 23. STATE WATER  
RESOURCES CONTROL BOARD**

**CHAPTER 30. ELECTRONIC SUBMITTAL  
OF INFORMATION**

**AND**

**TITLE 27. CALIFORNIA CODE  
OF REGULATIONS  
ENVIRONMENTAL PROTECTION  
DIVISION 3. ELECTRONIC SUBMITTAL  
OF INFORMATION  
SUBDIVISIONS 1 AND 2**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN THAT THE STATE  
WATER RESOURCES CONTROL BOARD  
PROPOSES TO ADOPT REGULATIONS ON  
ELECTRONIC SUBMITTAL OF INFORMATION  
REQUIREMENTS AFTER CONSIDERING ALL  
COMMENTS, OBJECTIONS AND  
RECOMMENDATIONS REGARDING THE  
PROPOSED ACTION**

These proposed regulations repeal sections 2729 and 2729.1 in Title 23 of the California Code of Regulations (CCR) and replace them with expanded versions in sections 3890, 3891, 3892, 3893, 3894 and

3895 in Title 23 of the CCR. In addition, new data dictionaries (the format for electronic submittal of information) for these regulations are added to Title 27 in coordination with existing Cal/EPA Unified Program data dictionaries, providing a cross-program unified structure for electronic reporting of information. The existing Unified Program data dictionaries are moved from their current location as Appendices in Subdivision 4, Division 1 in Title 27 into separate chapters in Subdivision 1 of a new Division 3 in Title 27. The new data dictionaries for electronic submittal of information are added as new chapters under Subdivision 2, Division 3 in Title 27 of the CCR.

These regulatory changes implement Water Code (WC) sections 13195 through 13198 and expand electronic submission requirements to all the SWRCB's groundwater cleanup programs. These groundwater cleanup programs require responsible parties to submit reports concerning subsurface investigations or remediation of unauthorized releases of waste or hazardous substances. These changes will also ensure a uniform standard for future electronic submittal of information requirements that other Cal/EPA programs may utilize.

**PUBLIC HEARING AND WRITTEN  
COMMENT PERIOD**

The SWRCB will hold a public hearing on the proposed regulations at 10:00 a.m. on June 16, 2003 in the Sierra Hearing Room at 1001 I Street, Sacramento, CA. At the public hearing, any person may present statements or arguments that are relevant to the proposed regulations described in the informative digest, either orally, or in writing. Written comments not presented at the public hearing will be considered by the SWRCB if they are received prior to 5:00 p.m. on June 16, 2003. Submit written comments to: Diane Trommer, State Water Resources Control Board, Division of Water Quality, 1001 I Street, P.O. Box 2231, Sacramento, CA, 95812.

A representative of the SWRCB will preside at the hearing. Persons who wish to speak are requested to register prior to the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded the opportunity after the registered persons have been heard. Time for presentations after the registered persons speak may be limited. All hearing attendees should allow up to 15 minutes to sign in and receive a badge prior to attending the public hearing.

Reasonable accommodation or sign language interpreting services at the public hearing will be provided



upon request. Such request should be made no later than 15 days prior to the public hearing date.

#### AUTHORITY AND REFERENCE

Water Code sections 185 and 1058, and Health and Safety Code (HSC) sections 25299.3, and 25299.7, authorize the SWRCB to adopt the proposed regulations, which would implement Water Code sections 13195 through 13198, enacted through Assembly Bill 2886 (Ch. 727, Stats. of 2000).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 2886 (Ch. 727, Stats. of 2000) required the SWRCB to adopt regulations for the electronic submittal of information concerning contaminant threats to groundwater to the State Water Resources Control Board's (SWRCB's) Geotracker database. Geotracker is an Internet-accessible database system integrated with a geographic information system (GIS). Geotracker was developed in response to AB 592 (Ch. 814, Stats. of 1997) and SB 1189 (Ch. 815, Stats. of 1997), to allow regulators to prioritize and manage threats to drinking water supplies more effectively and efficiently. Water Code section 13196 authorizes the SWRCB to establish electronic formats for reporting compliance data and mandates the adoption of a single standard for electronic reporting of analytical data from certified analytical laboratories. The SWRCB adopted emergency regulations on April 26, 2001, requiring electronic submittal to Geotracker of laboratory reports containing soil or water analysis data generated for reports required as part of the Underground Storage Tank (UST) program. The proposed regulations would replace the emergency regulations. Water Code Section 13198 authorizes the SWRCB to adopt regulations to expand the scope of sites for which electronic submittal of information is required. The need to see spatial and temporal trends of groundwater data is the same at all cleanup sites regardless of the program. Because the electronic submittal of information is the only viable method of ensuring that data are consistently and reliably entered, we are proposing that the regulations be extended to all groundwater cleanup programs at the SWRCB. This will allow the tools now available to the UST program to be used by other programs, greatly enhancing our overall ability to manage groundwater improvement efforts in California. The proposed regulations make permanent the existing electronic submittal requirements for UST cleanup sites, expand information required to be submitted, and extend the scope to include all the SWRCB's groundwater cleanup program sites.

Section 3890 will specify the intent, content, applicability and implementation of the regulations.

Section 3891 will provide definitions of relevant terms.

Section 3892 will specify that reports are subject to electronic reporting requirements if those reports are otherwise required, for the purpose of subsurface investigation or remediation of a discharge of waste or a hazardous substance.

Section 3893 will specify the elements of reports that will be required to be submitted electronically.

Section 3894 will specify additional reporting requirements.

Section 3895 will specify the timing for implementation of electronic submittal requirements.

The proposed regulations also provide a unified cross-program structure for electronic reporting. New data dictionaries (the format for electronic submittals of information) for these regulations are added to Title 27 in coordination with existing Cal/EPA Unified Program data dictionaries. The existing Unified Program data dictionaries are moved from their current location as appendices in Subdivision 4, Division 1 in Title 27 into separate chapters in Subdivision 1 of a new Division 3 in Title 27. The new data dictionaries for electronic submittals are added as new chapters under Subdivision 2, Division 3 in Title 27 of the CCR. This is in accordance with directive by the Legislature in 2000 to establish "... an electronic geographical information management system capable of receiving all data collected by the Unified Program Agencies, and to make all non-confidential data available on the Internet." Section 25404(e)(2) states clearly that this responsibility shall be carried out by the Unified Program. The Unified Program Electronic Data Dictionary, as developed, was the first of its kind in the state. The proposed regulations provide that all of the environmental data dictionaries should be located in the same site in the California Code of Regulations.

Title 27, Division 1, Subdivision 4, Chapter 1, Article 6, Section 15290(d)(2) will specify the SWRCB UST Program division based on the January 1, 2003 reorganization.

Title 27, Division 3, Subdivision 1, Chapter 1 will provide Unified Program business section data dictionaries for facility information.

Title 27, Division 3, Subdivision 1, Chapter 2 will provide a Unified Program business section data dictionary for hazardous materials.

Title 27, Division 3, Subdivision 1, Chapter 3 will provide Unified Program business section data dictionaries for underground storage tanks.

Title 27, Division 3, Subdivision 1, Chapter 4 will provide Unified Program business section data dictionaries for hazardous waste.

Title 27, Division 3, Subdivision 1, Chapter 5 will provide Unified Program Certified Unified Program

Agency (CUPA) section data dictionaries for information collection and reporting.

Title 27, Division 3, Subdivision 1, Chapter 6 will provide the Unified Program Consolidated Form.

Title 27, Division 3, Subdivision 2, Chapter 1 will provide a data dictionary for laboratory electronic reporting.

Title 27, Division 3, Subdivision 2, Chapter 2 will provide data dictionaries for well and site information electronic reporting.

#### FISCAL IMPACT ESTIMATES

**Mandates on Local Agencies and School Districts pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code:** The SWRCB has determined that the proposed amendments would not impose a mandate on local agencies or school districts nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**Cost or Savings to any State Agency:** State agencies that own or operate leaking underground storage tanks (USTs) have already incurred additional costs as a result of the proposed regulations, depending on the type of system installed. The most significant additional cost will be for those systems that report electronic data in accordance with the existing regulations. Based on information provided from various state agencies, the SWRCB estimates that 387 state-owned facilities are subject to the electronic reporting requirements. Each facility may incur an ongoing cost of approximately \$400 per year.

The total first year estimated cost to the state as a result of the proposed regulations is \$329,000. The average ongoing state cost will be \$224,000 annually. The SWRCB expects that state agencies will be able to absorb these additional costs within their existing budgets and resources.

**Estimate of potential cost or savings subject to reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code:** None.

**Other Non-discretionary Costs or Savings to Local Agencies:** Local agencies that are responsible for groundwater cleanup sites may incur additional costs as a result of the proposed regulations, depending on the number of systems installed. The number and type of local agency-owned facilities subject to this regulation is unknown and thus the cost to local agencies is unknown. However, the costs imposed by these regulations are incidental to laws of general application, do not apply uniquely to local governments, and do not add or increase the service from the local government to the public. Therefore, they are not

subject to reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code.

Local agencies will also be subject to minimal additional workload resulting from electronic file management and reporting requirements. The SWRCB believes that the additional extra local agency staff workload is insignificant.

**Cost or savings in federal funding to the state:** None.

#### ECONOMIC IMPACT ESTIMATES

**Statement of No Significant Adverse Economic Impact on California Businesses:** The SWRCB has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with other businesses in other states. The additional incremental cost to electronically submit data will have a very minor impact on the overall cost of investigation and cleanup at sites affected by the proposed regulation.

**Types of Businesses Affected:** Any business that has had an unauthorized release from an UST system has already been affected by the emergency regulations. Approximately 16,000 active leak sites from underground storage tanks have been subject to the emergency regulations. These businesses are mostly retail fuel service stations either owned or leased by major petroleum distributors or small, independently owned facilities. Other businesses affected include those that might have owned or operated USTs where there has been an unauthorized release, such as factories, equipment rental yards, construction companies or mines.

The proposed regulations will also affect small industrial and waste disposal facilities. These regulations would expand this number to include about 1000 sites on federal military facilities and 1165 small industrial facilities where site investigation and cleanup are currently ongoing. Approximately 1000 additional waste disposal facilities would also be subject to these electronic reporting requirements. About half of these sites will be required to submit electronic results resulting in 1630 sites expected to be subject to these regulations.

Laboratories certified to analyze hazardous wastes in the state of California may also be impacted by these regulations. By January 2002, over 140 laboratories were authorized to provide electronically deliverable laboratory reports. These laboratories analyze samples for UST sites subject to the emergency regulations promulgated under AB 2886, effective September 1, 2001. Many of these laboratories also analyze samples for the sites in the Spills,

Leaks, Investigation and Cleanup (SLIC), Department of Defense (DOD), and Land Disposal programs that will now also be subject to the final regulations. These laboratories will incur little additional cost to service the new facilities added by these regulations. There may be up to fifty additional laboratories that will need to develop or improve their abilities to submit electronic data. Their experience should mirror that of the laboratories that have already instituted the required systems and methods without major problems.

**Projected Reporting, Record Keeping, and Other Compliance Requirements:** Owners or operators of sites where electronic reporting is required, or their consultants, must gather, manage and submit additional electronically formatted data. Since periodic reporting of other site investigation and cleanup data is already required, the cost of the additional reporting requirements will be minor within the overall cost of investigations and cleanup. These overall costs routinely can be more than a million dollars per contaminated site.

The SWRCB has found that it is necessary for the health, safety or welfare of the people of the state that this regulation requiring reporting should apply to businesses.

**Potential Impact on Private Persons or Businesses Directly Affected:** Private persons who own facilities for personal use may be affected by the proposed regulations depending on the investigation and cleanup status of the facility. However, on an individual basis, private facility owners will be subject to the costs detailed below for applicable businesses.

The proposed regulations will cause California businesses (mostly gasoline retail facilities, waste disposal facilities, and small industrial facilities) to incur new costs. The SWRCB estimates that an additional 1,630 facilities with active ongoing site investigations will be subject to electronic submittal requirements. Each facility may incur an initial cost of up to \$4,000. The first year facility costs are determined by the time to gather and prepare all the electronic data files necessary for submittal, estimated at \$1,000 per site, plus the cost of surveying. This cost of surveying averages \$2,000 per facility and is required once, to locate all the monitoring wells sampled at each facility, and later if any additional monitoring wells are installed. Approximately \$1,000 of initial costs are allocated to fully recapture laboratory startup costs.

Ongoing costs are expected to average approximately \$400 per year, per facility for continued gathering and submission costs associated with electronic data reporting. These costs are assumed to be relatively constant for different types of facilities (UST, SLIC, etc.). Total costs for all private and

business facilities are estimated at over \$6,400,000 during the initial startup year and \$652,000 in subsequent years. These costs must be placed in context with the estimated \$400,000,000 per year presently spent to investigate and clean up the contaminated sites that are subject to this regulation. Before electronic data submittal requirements, the data collected during these investigations was available in hard copy only and was not readily managed. With electronic data submittal into a centralized State database, most of this data will now be available to the public and regulators over the Internet.

Laboratory costs are incurred in the first year of program implementation. Laboratories must program their database systems to produce the specified electronic, formatted, laboratory report required by these regulations. Once this programming is completed, there are very few subsequent costs incurred. Laboratories recover their costs by subjecting all electronic deliverables to a 5% to 10% surcharge. First year implementation costs for the 50 laboratories that participated in electronic data reporting for the UST program are estimated to range from \$500,000 to \$1,500,000. Cost per laboratory is estimated at \$10,000 to \$30,000.

Table 1. Summary of Economic and Fiscal Impact

Component	Cost in Year Incurred (Million \$)	
	Year 1	Each Subsequent Year
<b>Private/Business Enterprises</b>		
Consultant Costs	\$1.630	\$0.652
Surveyor Costs	\$3.260	
Laboratory Costs	\$1.50	
Annual Combined Costs	\$6.390	\$0.652
<b>Local/State Agency</b>		
Consultant Costs	\$0.154	\$0.154
SWRCB Costs	\$0.175	\$0.070
<b>Annual State Costs</b>	<b>\$0.329</b>	<b>\$0.224</b>
<b>Total Costs</b>	<b>\$6.719</b>	<b>\$0.876</b>

**Effect on the Creation or Elimination of Jobs within California:** The SWRCB is unable to calculate the net effect on the creation or elimination of jobs within California. However, since the vast majority of all expenditures required by this regulation will be paid and received within California, jobs lost from one part of a program would be offset by new jobs created in another.

**Effect on the Creation of New Businesses or Elimination of Existing Businesses within California:** The SWRCB is unable to calculate the effect on the creation of new businesses or elimination of existing businesses within California. However, new



businesses will be created and existing businesses eliminated within California in likely the same manner as jobs, described above.

**Effect on the Expansion of Businesses Currently Doing Business in California:** The proposed regulations will not have a significant adverse affect on the expansion of businesses currently doing business in California. Analytical laboratories are the most directly affected businesses. Laboratories that are capable of electronic reporting may experience an increase in business, because customers may favor the more technologically adept laboratories.

**Potential Significant Impact on Housing Costs:** None.

#### EFFECT ON SMALL BUSINESSES

The proposed regulations may affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the SWRCB must determine that no reasonable alternatives it considered, or that have otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed action.

The SWRCB evaluated the incremental cost-effectiveness of the regulations. The proposed regulations are cost-effective and represent the minimum requirements necessary to adequately implement the legislation. The proposed regulations effectively leverage previous investments by the SWRCB, laboratories and consultants, and minimize additional costs. No alternative considered by the SWRCB is more effective in carrying out the purpose for which the regulations are proposed. No alternative would be as effective and less burdensome to affected private persons than the proposed regulations.

The proposed regulations significantly reduce risks to human health, safety, and the environment from the impacts of MTBE and other hazardous chemicals because they implement statutes enacted for this purpose. The legislation was based on studies conducted by the University of California and presented in a comprehensive report on the "Health and Environmental Assessment of Methyl Tertiary-Butyl Ether (MTBE)." This report was peer reviewed by the Department of Toxic Substance Control, Disease Registry, the United States Geological Survey, as well as other nationally recognized experts. The findings and recommendations of the University of California report, public testimony, and regulatory agencies are that MTBE leaking from underground fuel storage tanks poses an environmental threat to groundwater.

Furthermore, there is a need to expand the scope of the regulations to include other groundwater cleanup sites. The ability to access electronic groundwater data will be valuable for all cleanup sites, regardless of program. Only when the SWRCB's groundwater cleanup data are centrally located in Geotracker will case managers, stakeholders and the public be aware of nearby groundwater cleanup sites that may affect a particular site. Extending the regulations to all SWRCB's groundwater cleanup programs will ensure that data are consistently and reliably entered. It will also provide case management tools to greatly enhance our overall ability to manage groundwater improvement efforts in California. Therefore, the benefits to human health, public safety, public welfare, or the environment justify the costs of the regulations.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The SWRCB has prepared for public review: 1) an initial statement of reasons for the proposed amendments; 2) a rulemaking record which contains all of the information upon which the proposed amendments are based, and 3) the text of the proposed amendments. A copy of the initial statement of reasons and a copy of the text and the express terms of the proposed amendments are available upon request by writing to the SWRCB, attention: Deanna Flanagan, Division of Water Quality, Underground Storage Tank Program, 1001 I Street, P.O. Box 2231, Sacramento, CA, 95812. This street address is also the location of public records, including reports, documentation, and other material related to the proposed amendments. Once it has been prepared, a final statement of reasons will also be available upon request to the SWRCB, attention: Deanna Flanagan, at the above address.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, the SWRCB may adopt the proposed regulations. If substantive changes are made, the modified text will be made available for comment for at least 15 days prior to adoption, and sent to all persons who testified at the public hearing; all persons who submitted written comments at the public hearing; all persons whose comments were received by the SWRCB during the public comment period; and all persons who requested notification from the SWRCB of the availability of such changes.

#### CONTACT PERSON

This Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the full text of the proposed regulations may also be viewed at the SWRCB Underground Storage Tank Program website at: <http://www.swrcb.ca.gov/ust/docs/ab2886/index.html>.



Please direct all written comments, procedural inquiries, and technical questions to:

**Diane Trommer**  
**State Water Resources Control Board**  
**Division of Water Quality 1001 I Street,**  
**P.O. Box 2231**  
**Sacramento, CA 95812**  
**(916) 341-5787**  
[trommerd@swrcb.ca.gov](mailto:trommerd@swrcb.ca.gov)  
 Back-up contact person:  
**Hamid Foolad**  
**State Water Resources Control Board**  
**Division of Water Quality**  
**1001 I Street,**  
**P.O. Box 2231**  
**Sacramento, CA 95812**  
**(916) 341-5791**  
[fooladh@swrcb.ca.gov](mailto:fooladh@swrcb.ca.gov)

## **TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **NOTICE OF PROPOSED RULEMAKING FOR THE CALHOME PROGRAM**

Notice is hereby given that the Department of Housing and Community Development (Department) proposes to adopt regulations for the CalHome Program. The purpose of the CalHome Program is to provide funds to local public agencies (localities) or nonprofit corporations as either grants for programs that assist individual households or loans that assist multi-unit homeownership development, mutual housing or limited equity cooperative projects.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action by the Department. The written comment period begins April 25, 2003 and closes at 5:00 p.m. on June 9, 2003. The Department will consider comments received during this timeframe. Please address your comments to Peter Solomon, Community Affairs Division, CalHome, P.O. Box 952054, Sacramento, California 94252-2054. Comments can be sent via fax transmittal to (916) 445-3086, attention: Peter Solomon, CalHome.

#### **PUBLIC HEARINGS**

Public hearings will be held in Los Angeles California on Thursday, May 22, 2003 from 10:00a.m. to 12:00p.m. at the Ronald Reagan State Building, Eason Room, located at 300 South Spring Street; and in Sacramento on Monday, June 9, 2003 from 10:00a.m. to 12:00p.m. at the HCD headquarters, Room 183, located at 1800 Third Street. Any person

may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest below. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimonies at the hearings.

#### **AUTHORITY AND REFERENCE**

The Department is conducting this rulemaking activity under the authority provided by Health and Safety Code (H&S) Section 50650.7 and to implement, interpret, and make specific Section 50650 of the Health and & Safety Code which was enacted as part of CalHomes Program statutes in SB 1656, Chapter 84, Statutes of 2000.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

These regulations implement the CalHome Program created by Chapter 84, Statutes of 2002 (SB 1656, Health and Safety Code Section 50650 et seq.). The purpose of the CalHome Program is to support existing homeownership programs for lower and very low income households operated by private nonprofit and local government agencies (**referred to hereafter as "Local Recipients"**). Distribution of CalHome funds is a two-step process. The Department will make awards of CalHome funds, in the form of a grant or a loan, to a Local Recipient through the use of a Notice of Funding Availability ("NOFA"). The Local Recipient in turn will use the funds to make loans to homeowners or home purchasers. The loans will be repayable to the Local Recipient.

The CalHome Program provides assistance to Local Recipients in the form of grants to fund local programs undertaking:

- Mortgage assistance loans to first-time homebuyers;
- Loans to owner-occupants for rehabilitation;
- Technical assistance to self-help housing projects; and
- Technical assistance for shared housing programs.

The Program also provides construction period loans for development of new homeownership projects for the costs of: land purchase, predevelopment, and site development. Upon completion of a development project, loans may be converted into grants for purchase assistance to individual homebuyers.

Assistance provided to individual homeowners is made in the form of low interest deferred loans repayable upon sale or transfer of the home. These loans will be repayable to the local recipient originating the loan. The proceeds of loan repayments must be retained in a local reuse account and used for other CalHome eligible expenditures. Each homebuyer

receiving CalHome assistance will be required to complete a homebuyer education course approved by the Department and provided by the Local Recipient.

Allowable uses of CalHome funds are for first-time homebuyer down payment assistance, homeowner rehabilitation, manufactured housing rehabilitation and replacement, homebuyer counseling, home acquisition with rehabilitation, self-help mortgage assistance, or for technical assistance for self-help and shared housing.

The CalHome Program previously operated under guidelines dated November 2, 2000 under which three Notices of Funding Availability were issued. These proposed regulations are based in large part on these earlier guidelines modified based on the Department's experience and comments from its customers.

The most notable change from the guidelines is an attempt to permit more local flexibility in the administration of CalHome funds. Rather than being overly prescriptive, these regulations attempt to permit the use of existing local programs so long as they include certain generally accepted industry requirements (e.g., reasonable underwriting standards).

The regulations are divided into the following 11 Articles:

1. General (purpose & scope).
2. General Program Requirements (eligible applicants, eligible activities, eligible and ineligible uses of funds, eligible households, local program/project administration, homebuyer education requirements, loan servicing requirements, and reuse account requirements).
3. Homeowner/Homebuyer Loan Requirements.
4. Mortgage Assistance Programs.
5. Owner-Occupied Rehabilitation Programs.
6. Self-Help Technical Assistance Projects.
7. Shared Housing Programs.
8. Development Loan Requirements.
9. Application Procedures.
10. Program Operations (legal documents, disbursements, reporting requirements, performance goals, and defaults).
11. Permanent-only Financing for Mutual Housing & Limited Equity Cooperative Projects.

Article 11 is a place holder. At this time, no regulations are being adopted for mutual housing and limited equity cooperative projects.

These regulations propose to distribute CalHome funds utilizing periodic Notices of Funding Availability ("NOFAs") announcing that the Department is accepting applications for funds. Applicants will be required to file an application containing the informa-

tion specified in the regulations. Applicants will then be screened for qualifying organizational stability and capacity using the following criteria:

- Mortgage assistance program—the applicant must have successfully administered a homebuyer program for at least 2 years within the last 4 years.
- Owner-occupied rehabilitation program—the applicant must have successfully administered an owner-occupied rehabilitation program for at least 2 years within the last 4 years.
- Self-help technical assistance project—the applicant must have successfully completed at least 2 self-help, new construction projects within the last 4 years.
- Shared housing—the applicant must have successfully administered a shared housing program for at least 2 years within the last 4 years.
- Development Loan—the applicant must have successfully completed at least 2 similar projects within the last 4 years and have staff committed to the project that possess the knowledge, skills and ability to perform tasks required for a homeownership development project.

Eligible applications will be rated and ranked for funding utilizing the following criteria:

- Capability of operating the local program or completing the development project based on past same or similar experience, including experience in loan servicing (up to 400 points).
- Community need based on housing purchase costs and poverty level (up to 150 points).
- Feasibility—for programs, the extent to which the program is responding to a community need; and for projects, readiness to proceed and likelihood that the project can provide affordable housing for lower income households (up to 250 points).
- Contribution to community revitalization (up to 100 points).
- Use of voluntary or self-help labor, or a youth construction skills training program (up to 100 points).

The applications with the highest scores will be awarded funds until funds under the NOFA are exhausted with the exception that an application must receive a minimum of 550 points to be eligible for funding.

Funds awarded for local programs must be expended within 36 months. For homeownership development projects, onsite construction must commence within 22 months of the award and construction completed and mortgage assistance loans closed within 36 months. For self-help technical assistance

projects, onsite construction must begin within 12 months of the award and units completed within 36 months. If these deadlines are not met, the Department may cancel the award and disencumber the funds.

#### **IMPACT OF PROPOSED REGULATIONS**

The CalHome Program provides funds to local public agencies (localities) or nonprofit corporations as either grants for programs that assist individual households or loans that assist multi-unit homeownership development, mutual housing or limited equity cooperative projects. The Program regulations are designed to provide financing for first-time homebuyer down payment assistance, homeowner rehabilitation, manufactured housing rehabilitation and replacement, homebuyer counseling, home acquisition with rehabilitation, self-help mortgage assistance, or for technical assistance for self-help and shared housing.

#### **EFFECT ON SMALL BUSINESS**

The proposed regulations do not affect small businesses, because the regulations do not mandate or require small businesses to take any prescribed action, and it has no financial impact on small businesses.

#### **LOCAL MANDATE**

The proposed regulatory activity will not impose a mandate on local agencies or school districts. Participation in the program is voluntary.

#### **FISCAL IMPACT**

This regulatory activity does not impose any cost on any local agency or school district that is required to be reimbursed under Part 7 (commencing with sec. 17500) of Division 4 of the Government Code; neither does the regulatory activity result in any other nondiscretionary cost or savings imposed on local agencies or in any cost or savings to any state agency (other than the Department). Participation is voluntary, not mandatory. The program is funded from the State's General Fund and has no impact on federal funding to the state.

#### **EFFECT ON HOUSING COSTS**

The program is intended to support existing homeownership programs aimed at low- and very low-income households, operated by private nonprofit corporations and localities, thereby to increase homeownership, encourage neighborhood revitalization and sustainable development, and maximize use of existing homes.

#### **INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY EFFECTING BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant

statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **ASSESSMENT STATEMENT**

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program would be voluntary.

#### **STATEMENT OF POTENTIAL COSTS IMPACT ON PRIVATE PERSONS AND BUSINESS DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

#### **CONSIDERATION OF ALTERNATIVES**

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS**

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Peter Solomon at the address and telephone number noted below.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Peter Solomon at the address indicated below. The

Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

**CONTACT INFORMATION PERSON**

HCD: Peter Solomon  
(916) 445-3086

HCD Back-Up: Lenora Frazier  
(916) 323-7288

HCD Address: State Department of Housing  
and Community Development  
1800 Third Street, Room 390  
Sacramento, California 95814

HCD Website: Copies of the Notice of Proposed  
Action, the Initial Statement of  
Reasons, and the text of the  
regulations may be accessed  
through our website at  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

HCD Facsimile No: (916) 323-6016

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning the substance of the proposed rulemaking action and any requests for the documents noted above should be made to:

Peter Solomon  
Division of Community Affairs—CSHHP  
State Department of Housing and Community  
Development  
P.O. Box 952054, MS 390-2  
Sacramento, California 94252-2054  
Telephone (916) 445-3086  
Fax (916) 323-6016  
[psolomon@hcd.ca.gov](mailto:psolomon@hcd.ca.gov)

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

**ITEM #1 Food Stamp Reauthorization Act of 2002—  
Non-citizen Children**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held June 11, 2003, as follows:

June 11, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on June 11, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.



## CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: ord@dss.ca.gov

## CHAPTERS

Manual of Policies and Procedures, Division 63,  
Chapter 63-400 (Eligibility Requirements), Section  
63-405 (Citizenship or Eligible Noncitizen Status)

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On May 13, 2002, Public Law (P.L.) 107-171, also known as the Farm Security and Rural Investment Act of 2002, was signed into law. This Act contains the Food Stamp Reauthorization Act of 2002 which legislates mandatory changes to the Food Stamp Program. Most of these provisions were implemented on October 1, 2002.

Upon implementation of these regulations, federal eligibility for the Food Stamp Program will be restored for legal non-citizens under the age of 18 regardless of the date of entry into the United States.

## COST ESTIMATE

1. Costs or Savings to State Agencies: Savings of approximately \$0 in the current State Fiscal Year. Due to realignment the fiscal effect is reflected on the local government.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Savings of approximately \$13,138,000. Additional costs of approximately \$1,627,000 to Food Stamp Administration.
4. Federal Funding to State Agencies: Additional expenditures of approximately \$0 in the current State Fiscal Year. Additional costs of approximately \$1,627,000 to Food Stamp Administration.

## LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not school districts. This regulation package implements federally-mandated changes to the Food Stamp Program. Therefore, there are no state-mandated costs. The local, state, and federal agencies share administrative costs. Increased costs in benefits are paid entirely by the federal government.

## STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide

adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

## ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

## STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

## STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific P.L. 107-171, Title IV, Section 4401 and the United States Department of Agriculture, Food and Nutrition Service Administrative Notice (AN) 03-04 dated October 21, 2002 and AN 02-39 dated July 8, 2002.

## CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Robin Garvey  
(916) 657-2586

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF CORPORATIONS

#### INVITATION FOR COMMENTS ON ADMINISTRATIVE REGULATION UNDER THE CALIFORNIA FRANCHISE INVESTMENT LAW NEGOTIATED SALES

In Reply Refer To: File No: Pro 11/02

#### NOTICE

Pursuant to Government Code Section 11346(b), the Department of Corporations (the "Department") is inviting comments from interested persons regarding changes to the following regulations under the California Franchise Investment Law (the "FIL"):

- Title 10, *California Code of Regulations*, Section 310.100.2, Negotiated Sales.

Comments from interested persons will assist the Department in determining whether amendments are necessary and appropriate.

#### BACKGROUND

Under existing law, it is unlawful to offer or sell a franchise in California unless the offer of franchise has been registered or exempted under the FIL. (Cal. Corp. Code § 31110.) Section 310.100.2 provides an exemption to the registration requirement for the offer or sale of a franchise on terms different than the terms of the registered offer ("negotiated sale") if specified conditions are met. The Department is seeking a broad range of comments on whether any changes are necessary to the conditions that must be met in order for a "negotiated sale" to be exempt from the registration requirements of Corporations Code Section 31110. In soliciting comments, the Department seeks to ensure that all interests are fairly represented and considered before any amendments to the regulation are proposed for adoption.

The Department is inviting comments concerning Section 310.100.2 to determine whether any amendments to the rule are needed to better serve the public interest or to protect investors.

#### QUESTION UNDER CONSIDERATION

Should Section 310.100.2 of Title 10 of the California Code of Regulations be modified, If so, how?

For each and every suggested change to the above FIL section, the Department requests that comments address and provide explanations to all of the following questions:

1. What is the problem that the suggested change is addressing?
2. What does the suggested change do to resolve the problem?
3. Why is the suggested change necessary?
4. How is the suggested change:
  - a. Consistent with the purposes of the FIL?
  - b. Consistent with the provisions with the FIL?
5. What existing laws or regulations are directly related to the proposed change?
6. What are the benefits and burdens of the suggested change to:
  - a. The franchisor?
  - b. The franchisee?
7. What positive or negative fiscal impact (if any) will the proposed changes have on:
  - a. The franchisor?
  - b. The franchisee?
8. What significant adverse economic impact (if any) will the proposed changes have on any private person or business?
9. How will the suggested change (if applicable):
  - a. Impact the ability of California businesses to compete with businesses in other states?
  - b. Create or eliminate jobs in California?
  - c. Create new businesses within California?
  - d. Expand businesses currently doing business within California?
  - e. Result in any cost impact that a private person or business would necessarily incur in reasonable compliance with the suggested change?
10. What alternatives (if any) are available that would:
  - a. Be more effective in carrying out the purpose of the proposed change?
  - b. Be as effective, but less burdensome to any affected private person than the proposed change?
  - c. Lessen the adverse impact (if any) on small business?
11. How does the proposed change:
  - a. Serve the public interest?
  - b. Protect franchisees?

#### TIME FOR COMMENTS

The Department requests comments be received by: August 1, 2003.

#### WHERE TO SUBMIT COMMENTS

Please reference PRO 11/02 in correspondence to the Department. Please submit comments as follows:

Kathy Womack  
Office of Law and Legislation  
1515 K Street, Suite 200  
Sacramento, CA 95814-4052

Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-3205.

#### CONTACT PERSONS

Non-substantive inquiries concerning this INVITATION FOR COMMENTS, such as requests for copies of documents or questions regarding timelines, may be directed to Kathy Womack (916) 322-3553. Inquiries regarding the substance of this invitation for comments may be directed to Kimberly Willy at (916) 324-9687.

### DEPARTMENT OF FISH AND GAME

#### CESA CONSISTENCY DETERMINATION FOR Routine Highway Maintenance Activities Riverside and San Bernardino County

The Department of Fish and Game ("Department") received notice on April 8, 2003 that California Department of Transportation proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction, operation and maintenance of Interstate 15, from E. Main Street in Barstow to 0.2 miles south of Rasor Road in Riverside and San Bernardino Counties. The proposed project includes cold-planing the existing travel way and shoulders, placing asphalt concrete dikes, raising drainage inlets, removing and replacing AC spillways, repairing or replacing existing drainage facilities and upgrade electrical lighting. The activities will result in impacts to desert tortoise habitat.

The U.S. Fish and Wildlife Service, issued to the Federal Highway Administration (FHWA), a no jeopardy federal biological opinion (1-8-94-F-40) which considers the Federally and State threatened desert tortoise (*Gopherus agassizii*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the FHWA is requesting a determination on whether the Federal Biological Opinion 1-8-94-F-40 is consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, the California Department of Transportation in Riverside and San Bernardino counties will not be required to obtain an incidental take permit under CESA for the proposed project.

### DEPARTMENT OF FISH AND GAME

#### CESA CONSISTENCY DETERMINATION FOR Rolling Hills Ranch Subarea III Project San Diego County

The Department of Fish and Game ("Department") received notice on April 8, 2003 that The McMillin Rolling Hills Ranch, LLC proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction of the final phase of a master-planned development (neighborhoods 9 through 12). The activities will result in permanent impacts wetlands, Waters of the United States, and grasslands on the 606-acre project site.

The U.S. Fish and Wildlife Service, issued to the Army Corp of Engineers (Corps), a no jeopardy federal biological opinion (1-6-02-F-1071.4) which considers the Federally threatened and State endangered Otay tarplant (*Deinandra conjugens*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the Corps is requesting a determination on whether the Federal Biological Opinion 1-6-02-F-1071.4 is consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, the Corps will not be required to obtain an incidental take permit under CESA for the proposed project.

### DEPARTMENT OF TOXIC SUBSTANCES CONTROL

#### Notice of Intent to Extend Certification and Re-Certify Hazardous Waste Environmental Technology

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) intends to extend the certification and re-certify the following company's hazardous waste environmental technology:

Applicant: puraDYN Filter Technologies, Inc.  
3020 High Ridge Road, Suite 100  
Boynton Beach, FL 33426

Technology: puraDYN® Bypass Oil Filtration  
System

The current puraDYN® certification expires on June 25, 2003. DTSC is proposing to amend the existing puraDYN® certification to set an expiration date of August 25, 2003, to allow completion of the re-certification decision process. With the publication of this proposed certification decision, pursuant to Title 22 California Code of Regulations Section

68100(b), the current puraDYN® certification shall remain valid until the final decision on re-certification becomes effective. If the final decision is to re-certify then that certification will remain in effect for three years from the date of issuance, unless it is amended or revoked for cause.

Section 25200.1.5 of the Health and Safety Code enacted by Assembly Bill 2060 (1993) authorizes DTSC to certify the performance of hazardous waste environmental technologies. The purpose of the certification program is to provide an in-depth, independent review of technologies to facilitate regulatory and end-user acceptance. Only technologies that are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to take any action necessary for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify is subject to public review and comment. Written comments must be received by DTSC no later than 30 days after publication of this notice. All comments will be considered and appropriate changes will be made prior to publishing DTSC's final decision.

Additional information supporting DTSC's proposed decision can be found in the April 2003 Cal/EPA report entitled *puraDYN® Bypass Oil Filtration System Technical Evaluation Report*. To obtain a copy of the report, or to submit comments on the proposed recertification, contact:

California Environmental Protection Agency  
Department of Toxic Substances Control  
Office of Pollution Prevention and  
Technology Development  
P.O. Box 806  
Sacramento, California 95812-0806  
Attn.: Mr. Dick Jones (916) 322-3292

A description of the technology to be recertified, the proposed certification statement, and the certification conditions and limitations for the technology of the company listed above follows. DTSC emphasizes that this is a proposed certification for public comment, and not the final decision to certify this technology.

### 30-DAY PUBLIC NOTICE CERTIFICATION PROGRAM FOR HAZARDOUS WASTE ENVIRONMENTAL TECHNOLOGIES

#### PROPOSED TECHNOLOGY CERTIFICATION puraDYN® Bypass Oil Filtration System

**Technology:** puraDYN® Bypass Oil Filtration System

**Manufacturer:** puraDYN® Filter Technologies, Inc.  
3020 High Ridge Road, Suite 100  
Boynton Beach, FL 33426

#### Technology Description

The puraDYN® Bypass Oil Filtration System was designed to extend oil drain intervals by continuously filtering engine oil. The bypass system filters a portion of the total oil flow to a greater degree than the full-flow filters typically found on vehicles. The puraDYN® system consists of a replaceable filter element housed in a metal canister. The canister is mounted on the vehicle frame, above the engine oil sump. The oil inlet to the canister is connected to the engine's oil pressure sending unit or oil galley. A stainless steel electric heating element is wired to the vehicle's electrical system, and the clean oil return line is connected to the oil sump.

Although engine oil is fed to the canister inlet by engine oil pressure, a metering jet is used to restrict the flow rate to six gallons per hour (gph). The oil passes through a filter disk, and then through a long-strand cotton disposable filter element with a layer of time-released additives, effectively removing particles larger than one micron while replenishing lost or consumed oil additives. Filtered oil then flows over a heated diffuser plate located in the evaporation chamber. Fuel, water and coolant are evaporated at 195 degrees Fahrenheit and are vented to the air cleaner. Purified of particulate matter, fuel, water and coolant, the oil returns by gravity flow through the clean oil return line to the engine oil sump.

#### Certification Basis

The purpose of this puraDYN® re-certification was to re-evaluate and reconfirm the conclusion of the original 1994 certification and the 1998 re-certification. The 1994 and 1998 reports certified that by extending oil change intervals, the puraDYN® Bypass Oil Filtration System extends the useful life of the oil and reduces the generation of waste oil without adversely affecting engine wear or performance. For this re-certification, the puraDYN® system was re-evaluated using comments and data collected from current users, and through oil sampling conducted by DTSC on a variety of current applications.



DTSC staff contacted puraDYN® distributors who provided DTSC with thirty-five current puraDYN® users. These users were asked for their comments and oil analysis data. Eighteen users provided comments and eight sets of oil analysis data were received. DTSC was able to gauge customer satisfaction with the puraDYN® system from these comments. Oil analysis data provided by the users was reviewed to identify contaminants and characterize the overall oil quality. Data was received for various types of vehicles, including pick-up trucks, large semi trucks, dump trucks, buses, and boats.

Oil samples were also collected by DTSC to provide independent analyses of oil conditions on a variety of current puraDYN® applications. DTSC was able to collect oil samples for independent analysis from a cement truck, a bus, two police boat engines, and a rail yard switch engine.

Additionally, DTSC relied on the previous certification reports as an important foundation for this recertification. The 1998 Re-certification Report (Appendix C) includes extensive certification data and numerous customer testimonials and oil analysis data, which are reviewed and summarized in this evaluation. The 1998 report also includes vendor supplied information, guidelines on the extended use of engine oil, and results of a state-sponsored demonstration project using 22 trucks and 13 buses

### **Proposed Certification Statement**

The puraDYN® Bypass Oil Filtration System is certified by DTSC as a Pollution Prevention technology when installed, operated, monitored, and maintained according to puraDYN's® standards and specifications. This pollution prevention certification is specific to engine oil usage and used oil generation. The puraDYN® Bypass Oil Filtration System has been shown to be an effective means of extending engine oil change intervals by aiding in the removal of particulate matter, water, coolant, and fuel. Extended drain intervals reduce the:

- 1) use of new oil;
- 2) generation of used oil; and
- 3) potential of spills while draining and handling used oil.

The puraDYN® Bypass Oil Filtration System maintains the following engine oil properties within acceptable limits for continued use if properly operated, monitored, and maintained: viscosity and solids content, water, coolant, fuel, wear metals, and oil additives. The Bypass Oil Filtration System is not expected to maintain these within acceptable limits if major system failures occur, such as: leaks of coolant into the crankcase, leaks of fuel into the crankcase, oil cooler leaks, etc.

Engine oil drain cycles vary according to engine type, fuel quality, oil type, oil consumption rate, work environment, and engine loading. Extended oil drain cycles rely on elimination of harmful contaminants. Oil analysis is the most essential tool in determining maximum drain intervals and predicting forthcoming engine maintenance needs.

DTSC finds that the manufacturer's product or equipment can achieve performance levels as described in the certification. This finding is based on a review of additional data collected over four years from end-users, current and previous data submitted by the manufacturer, and interviews with current and previous end-users who have used the equipment in accordance with manufacturer's specifications. Testing was conducted in 2002, providing oil samples and analysis from four puraDYN® equipped units; in 1994, under the direction of DTSC to confirm data submitted by puraDYN®; and in 1997, by C.F. Services, for a California Integrated Waste Management Board grant-funded demonstration project.

### **Limitations of Certification**

The Department makes no express or implied warranties as to the performance of puraDYN's® Bypass Oil Filtration System. Nor does the Department warrant that puraDYN's® product or equipment is free from any defects in workmanship or material caused by negligence, misuse, accident, or other causes.

The Department does believe, however, that the manufacturer's product or equipment can achieve performance levels set out in this certification when the product or equipment is used in accordance with the manufacturer's specifications. Said belief is based on a review of the data submitted by the manufacturer, interviews with end-users of the equipment, and independent testing conducted under the direction of the Department.

By accepting this certification, the manufacturer assumes, for the duration of this certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal or better than was provided to obtain this certification and agrees to be subject to quality monitoring by the Department pursuant to the law under which this certification is granted.

### **Regulatory Implications**

This certification is for the specific claims, conditions, and limitations outlined in this notice, and is based on DTSC's evaluation of the technology's performance. The certification does not change the regulatory status of the puraDYN® Bypass Oil Filtration System; it should, however, facilitate and

encourage the acceptance of this technology for its environmental benefits as a pollution prevention technology.

Use of this technology may be subject to regulation by federal, state, and local agencies. For each specific application, the end-user must ensure compliance with all applicable regulations and standards established by federal, state, and local agencies.

This certification is issued under the California Environmental Technology Certification Program, and is therefore subject to the conditions set out in the regulations, such as the duration of the Certification, monitoring and oversight requirements, and procedures for certification amendments, including decertification.

#### **Duration of Certification**

This certification will remain in effect for three years from the date of issuance, unless it is amended or revoked for cause.

### **DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

#### **CALIFORNIA REGULATORY REGISTER NOTICE ACTION DESCRIPTION FOR A SMALL LOAD OPERATIONS VARIANCE ISSUED BY THE STATEWIDE COMPLIANCE DIVISION, TRANSPORTATION SECTION, FOR CAT MASTER**

On April 8, 2003, the Department of Toxic Substances Control (DTSC), granted a regulatory exemption variance to Cat Master, a registered transporter of hazardous waste, to conduct small load operations authorized under the California Code of Regulations, title 22, section 66263.46. The variance permits the grantee to transport up to 100 kilograms of oil waste per load, and no greater than 1000 kilograms per calendar month, directly to an authorized facility. In lieu of a manifest, the transporter shall use a shipping paper which contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172.

#### **CEQA EXEMPTION**

The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to Chapter 13, Article 4, Section 66263.40 et seq. (Regulatory Exemptions for Certain Transportation Operations), that allows for five specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The variance expires on April 30, 2004. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

### **CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

#### **NOTICE TO INTERESTED PARTIES**

#### **NOTICE OF PUBLIC COMMENT PERIOD ON AIR TOXICS HOT SPOTS PROGRAM— CHRONIC TOXICITY SUMMARY SILICA (CRYSTALLINE, RESPIRABLE)**

The Office of Environmental Health Hazard Assessment (OEHHA) is releasing a draft document, *Chronic Toxicity Summary for Silica (Crystalline, Respirable)* to solicit public comment. This draft document has been developed by OEHHA for use in implementing the Air Toxics Hot Spots Program (Health and Safety Code Section 44360). OEHHA developed four Technical Support Documents (TSDs) and a Guidance Manual in response to this statutory requirement, which provided the scientific basis for values used in assessing risk from exposure to facility emissions. The *TSD for the Determination of Chronic Reference Exposure Levels* (Part III of the TSD series), which has already undergone public and peer review and been adopted by OEHHA, describes the methodology for risk assessment for materials having adverse health impacts following chronic exposures. The present document presents a toxicity summary and chronic REL for crystalline silica, particularly when this material is composed of particles of respirable size ( $\leq 10 \mu\text{m}$ ). If approved by the Scientific Review Panel on Toxic Air Contaminants, and adopted by the Director of OEHHA, this document will form a further addendum to the Part III TSD. We are seeking comments on the *Chronic Toxicity Summary for Silica (Crystalline, Respirable)*, including its clarity, and the appropriateness of the methodology and data on which the REL derivation is based. Following this public comment period, the document and any comments received, along with OEHHA's response to these comments, will undergo review by the state's Scientific Review Panel on Toxic Air Contaminants.

The Chronic Toxicity Summary for Silica becomes available on the OEHHA Home Page at <http://www.oehha.ca.gov> on **April 25, 2003**. **The availability of the document on this site will commence a 30-day public review period that will end on May 23, 2003.**

Public workshops will be held in Fresno on May 9, 2003 and in Oakland on May 20, 2003 for the public

to comment on the summary. Information on the public workshops are as follows:

DATE and TIME: May 9, 2003 from 10a.m.–2p.m.  
 PLACE: San Joaquin Valley Unified APCD  
 1990 E. Gettysburg Avenue  
 Fresno, CA 93726  
 Governing Board Room

DATE and TIME: May 20, 2003 from 10a.m.–2p.m.  
 PLACE: Elihu Harris State Office Building  
 1515 Clay St.  
 Oakland, CA 94612  
 Room 234, 2<sup>nd</sup> Floor

Please direct any inquiries concerning technical matters, or availability of the *Chronic Toxicity Summary for Silica (Crystalline, Respirable)*, to Dr. Andrew G. Salmon at (510) 622-3191. Please direct your written comments regarding the draft Chronic Toxicity Summary for Silica to Dr. Andrew G. Salmon (Chief, Air Toxicology and Risk Assessment Unit), Office of Environmental Health Hazard Assessment, 1515 Clay St., 16<sup>th</sup> Floor, Oakland, CA 94612, or by e-mail to [asalmon@oehha.ca.gov](mailto:asalmon@oehha.ca.gov). Information about dates and agenda for meetings of the Scientific Review Panel can be obtained from the ARB web page at <http://www.arb.ca.gov/srp/srp.htm>.

## PROPOSITION 65

### CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC  
 ENFORCEMENT ACT OF 1986  
 (PROPOSITION 65)

#### NOTICE TO INTERESTED PARTIES

#### Public Workshop on Acrylamide with Respect to Proposition 65 Regulatory Options

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65; Health and Safety Code Section 25249.5 et seq.). As such, OEHHA has expertise in the evaluation of the toxicity of chemicals. Recent research has shown that appreciable levels of acrylamide, a chemical known to the state to cause cancer, result from the cooking of certain foodstuffs at high temperatures. The presence of acrylamide in food is a matter of public health significance due to the extremely broad range of foods in which acrylamide

has been detected. Accordingly, it is appropriate for OEHHA to further assess the health issues related to acrylamide in food and provide its assessment to interested parties.

On March 14, 2003, OEHHA published a public notice in the California Regulatory Notice Register (Register 03, No. 11) soliciting input and information on possible agenda items for a workshop to discuss appropriate Proposition 65 regulatory options regarding acrylamide created by cooking foods, including the adoption of alternative risk levels. Information received during that solicitation will be considered as the agenda for the workshop is prepared. OEHHA expects to post the agenda for the workshop and links to background materials on its website during the week of April 21, 2003. The URL for that website is [www.oehha.ca.gov](http://www.oehha.ca.gov).

The workshop will be held on May 13, 2003 at the Cal/EPA building, 1001 I Street, Sacramento, California. The workshop will begin at 10:00 am and will last until all business has been conducted or 5:00 p.m. After consideration of the information received during the workshop, OEHHA anticipates taking more formal regulatory action as appropriate to address the issue of acrylamide in food. OEHHA plans to announce next steps regarding those actions in July 2003.

OEHHA expects that this regulatory process will clarify the application of Proposition 65 to foods containing acrylamide including potato and cereal-based products.

For further information on the workshop, please contact:

Cynthia Oshita  
 Office of Environmental Health Hazard Assessment  
 Proposition 65 Implementation  
 P.O. Box 4010  
 1001 I Street, 19<sup>th</sup> floor  
 Sacramento, California 95812-4010  
 FAX (916) 323-8803  
 (916) 445-6900

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA,



95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

**Centralized Eligibility Lists—Child Development Programs**

This action permits Child Development Division child care contractors to satisfy existing waiting list regulatory requirements by participating in a county child care centralized eligibility list.

Title 5

California Code of Regulations

AMEND: 18106

Filed 04/15/03

Effective 05/15/03

Agency Contact: Debra Strain (916) 319-0641

**AIR RESOURCES BOARD**

**Emission Standards and Test Procedures**

The Air Resources Board in section 2412(b), title 13, California Code of Regulations is changing the year “1977” to “1997” under emission standards for “Off-road motorcycles and all-terrain vehicles with engines greater than 90CC 1997 and later (g/km)” . The change appeared in File No. 99-1022-04S. However, the change to subsection (f) adding “Model year 2003 and later” is withdrawn this date.

Title 13

California Code of Regulations

AMEND: 2412(b)

Filed 04/14/03

Effective 04/14/03

Agency Contact:

David Aron Livingston (916) 322-2884

**AIR RESOURCES BOARD**

**Exhaust Emission Standards and Test Procedures**

This nonsubstantive action clarifies certain CCR subsection references, making the references more “pinpoint” exact. This action also adds clarifying text to the heading of the section.

Title 13

California Code of Regulations

AMEND: 1956.8

Filed 04/16/03

Effective 04/16/03

Agency Contact:

Aron Livingston (916) 322-2884

**BOARD OF EDUCATION**

**California English Language Development Test**

This action makes minor amendments in definitions associated with the California English Language Development Test and advances by four months, the date for annual reporting of the number of students taking the test in each school district.

Title 5

California Code of Regulations

AMEND: 11510, 11512.5(a)(11), 11517 REPEAL: 11510(j)

Filed 04/14/03

Effective 04/14/03

Agency Contact: Debra Strain (916) 319-0641

**CALIFORNIA ARCHITECTS BOARD**

**Filing of Applications**

This action would amend the Application for Eligibility Evaluation form used for Architect Registration Examination. The amendment updates the school code list of colleges and universities that grant architectural degrees.

Title 16

California Code of Regulations

AMEND: 109, 111

Filed 04/14/03

Effective 04/14/03

Agency Contact: Sue Martin (916) 327-3884

**CALIFORNIA HORSE RACING BOARD**

**Paymaster of Purses**

This rulemaking expands the duties of the paymaster to include disbursement of ten-percent of the net purse money earned on any horse that finishes first, second or third at a quarter horse race meeting to the trainer’s account.

Title 4

California Code of Regulations

AMEND: 1467

Filed 04/09/03

Effective 05/09/03

Agency Contact: Harold Coburn (916) 263-6397

**DEPARTMENT OF CORRECTIONS**

**Parole Hearings Division**

This is a nonsubstantive action repealing various regulations concerning the setting of the terms and conditions of parole, conducting of parole hearings, etc. Chapter 53X (first extraordinary session), Statutes of 1994 transferred to the Board of Prison Terms (BPT) the parole authority for all prisoners sentenced in California. (BPT has its own regulations dealing with these topics in Title 15, sec. 2000, etc.) Department of Corrections no longer has authority to establish conditions and setting of parole and is removing its obsolete regulations. Its own Parole Hearings Division was eliminated 6 years ago.

Title 15

California Code of Regulations

REPEAL: 3901.1, 3901.1.2, 3901.3.1, 3901.5.1, 3901.5.2, 3901.5.3, 3901.5.4, 3901.5.5, 3901.5.6, 3901.7.1, 3901.7.2, 3901.7.3, 3901.9.2, 3901.9.3, 3901.9.5, 3901.9.6, 3901.11.1, 3901.13.1, 3901.13.2, 3901.13.3, 3901.15.1, 3901.15.2, 3901.15.3, 3901.15.

Filed 04/15/03



Effective 04/15/03  
Agency Contact: Ann Cunningham (916) 322-9690

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**Oriental Fruit Fly Interior Quarantine**

This Certificate of Compliance establishes a quarantine for Oriental fruit fly in the La Miranda area of Los Angeles and Orange counties.

Title 3  
California Code of Regulations  
AMEND: 3423(b)  
Filed 04/15/03  
Effective 04/15/03  
Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF HEALTH SERVICES**  
**Rate Increases for Hospital Outpatient Departments**

This emergency action will increase the maximum reimbursement rate paid to hospitals under the Medi-Cal program for outpatient services provided on or after July 1, 2001.

Title 22  
California Code of Regulations  
ADOPT: 51509  
Filed 04/10/03  
Effective 04/10/03  
Agency Contact:  
Charles E. Smith (916) 657-0730

**DEPARTMENT OF HEALTH SERVICES**  
**Raw Oysters**

In this emergency regulatory action, the Department of Health Services revises its regulations pertaining to the sale of raw oysters. The regulations include provisions relating to labeling, written warnings, prohibitions on dealers and retail food facilities accepting raw oysters under specified conditions, and requirements for a raw oyster dealer to receive a "verification" from the Department that the raw oysters supplied by the dealer are subjected to an "oyster treatment process."

Title 17  
California Code of Regulations  
ADOPT: 13676 AMEND: 13675  
Filed 04/14/03  
Effective 04/14/03  
Agency Contact:  
Charles E. Smith (916) 657-0730

**DEPARTMENT OF INDUSTRIAL RELATIONS**  
**Security Deposit**

This is a nonsubstantive action correcting a typographical error where the regulation text references another subsection. The reference is clearly intended to refer to another subsection.

Title 8  
California Code of Regulations

AMEND: 15210  
Filed 04/09/03  
Effective 05/09/03  
Agency Contact: Tina Freese (916) 483-3392

**DEPARTMENT OF SOCIAL SERVICES**  
**Release of CalWORKs/Food Stamp Information to Law Enforcement**

The regulatory action deals with the release of CALWORKS and food stamp information to law enforcement officials.(California Department of Social Services ORD#0701-14.)

Title MPP  
California Code of Regulations  
AMEND: 19-001, 19-004.412, 19-004.412(a), re-number 19-004.9 to 19-004.42, 19-004.62, 19-005.21, 19-007.1, 20-300.32, 20-300.33  
Filed 04/09/03  
Effective 05/09/03  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF SOCIAL SERVICES**  
**Foster Family Homes Emergency**

This Certificate of Compliance conforms current regulations dealing with the licensing of foster care homes to changes in federal and state law. (Previous OAL file ##02-0620-04E, 02-1018-08EE)

Title 22, MPP  
California Code of Regulations  
ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405  
AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 87010, 87010.1, 87010.2, 87017, 87018, 87019, 87019.1, 89221, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 8  
Filed 04/09/03  
Effective 04/09/03  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF SOCIAL SERVICES**  
**CalWORKs 60-Month Time Limit Procedures**

The regulatory action is the Certificate of Compliance for emergency regulations that dealt with CALWORKS 60 month time limits. (Prior OAL Files 02-0219-02E; 02-0626-02EE and 02-0923-01EE. California Department of Social Services ORD# 1201-23.)

Title MPP  
California Code of Regulations  
AMEND: 40-107.14, 40-107.15, 42-301.2, 42-302.1, 42-302.2, 42-0302.3, 44-133.5, 44-133.8, 44-352.1, 88-832, 88-833.1

Filed 04/09/03  
Effective 04/09/03

Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**FAIR POLITICAL PRACTICES COMMISSION**  
Forms and Manuals

This action would make the Commission's forms and manuals more accessible to interested persons through various means.

Title 2  
California Code of Regulations  
AMEND: 18313  
Filed 04/10/03  
Effective 04/10/03  
Agency Contact: Luisa Menchaca (916) 322-5660

**FAIR POLITICAL PRACTICES COMMISSION**  
Coordinated Expenditures—Made at the Behest of

The Fair Political Practices Commission is amending section 18225.7 and adopting section 18550.1, title 2, California Code of Regulations, pertaining to "Made at the behest of," and "Independent and Coordinated Expenditures," respectively.

Title 2  
California Code of Regulations  
ADOPT: 18550.1 AMEND: 18225.7  
Filed 04/09/03  
Effective 04/09/03  
Agency Contact:  
Lawrence T. Woodlock (916) 322-5660

**FISH AND GAME COMMISSION**  
Transgenic Aquatic Animal Restriction

The regulatory action deals with transgenic aquatic animal restrictions.

Title 14  
California Code of Regulations  
ADOPT: 1.92 AMEND: 671, 671.1  
Filed 04/14/03  
Effective 05/14/03  
Agency Contact: John M. Duffy (916) 653-4899

**FISH AND GAME COMMISSION**  
Cowcod and Calif. Rockfish Conservation Areas

This regulatory action changes the Cowcod Conservation Areas boundaries and establishes the California Rockfish Conservation Area.

Title 14  
California Code of Regulations  
ADOPT: 1.39, 1.49, 27.83 AMEND: 27.82  
Filed 04/15/03  
Effective 04/15/03  
Agency Contact: John M. Duffy (916) 653-4899

**FRANCHISE TAX BOARD**  
Deduction for Certain Dividends

This action amends an effective date (from 1/1/97 to 1/1/96) based on the effective date of the underlying statute and Revenue and Taxation Code section 18415(a). The action would also add the language "except as otherwise specifically provided" to take into account another effective date requirement in a different subsection. This action is being submitted as a nonsubstantive change.

Title 18  
California Code of Regulations  
AMEND: 24411  
Filed 04/09/03  
Effective 05/09/03  
Agency Contact:  
Colleen Berwick (916) 845-3306

**STATE MINING AND GEOLOGY BOARD**  
Performance Standards-Back Filling Open Pit Surface Mines

This filing is a readoption of an emergency regulatory action which established performance standards for backfilling excavations and recontouring lands disturbed by open pit surface mining operations for metallic minerals.

Title 14  
California Code of Regulations  
ADOPT: 3704.1  
Filed 04/15/03  
Effective 04/15/03  
Agency Contact:  
John G. Parrish (916) 322-1082

**STATE WATER RESOURCES CONTROL BOARD**  
Amendment to Basin Plan for Lahontan Region

This regulatory action incorporates a Total Maximum Daily Load (TMDL) and TMDL Implementation Program to control phosphorus loading to Indian Creek Reservoir.

Title 23  
California Code of Regulations  
AMEND: 3955  
Filed 04/14/03  
Effective 05/14/03  
Agency Contact: Greg Frantz (916) 341-5553

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN DECEMBER 11, 2002  
TO APRIL 16, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and

Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

01/21/03 REPEAL: 121, 122, 123, 124, 125, 125.5, 126, 127, 128, Appendix A

**Title 2**

04/10/03 AMEND: 18313  
 04/09/03 ADOPT: 18550.1 AMEND: 18225.7  
 04/04/03 AMEND: 599.885  
 04/03/03 AMEND: 599.515  
 04/03/03 ADOPT: 23000, 23100, 23100, 23200, 23300  
 04/01/03 AMEND: 52.4  
 03/27/03 ADOPT: 18754  
 03/24/03 AMEND: 321  
 02/28/03 AMEND: 599.931  
 02/27/03 ADOPT: 1859.2, AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145  
 02/25/03 REPEAL: 18707.3  
 02/24/03 AMEND: 18312  
 02/24/03 ADOPT: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445  
 02/19/03 AMEND: 1859.79, 1859.79.3, 1859.81.1, 1859.83, 1859.107  
 02/18/03 AMEND: 18704.2  
 02/18/03 AMEND: 18991  
 02/13/03 AMEND: 1859.77.2  
 02/13/03 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859, 171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1  
 02/11/03 AMEND: 1897  
 02/11/03 AMEND: 1555  
 02/06/03 ADOPT: 50  
 02/06/03 ADOPT: 1859.74.5, 1859.74.6, 1859.81.2, 1859.81.3, 1859.105.2 AMEND: 1859.2, 1859.74, 1859.76, 1859.77.1 1859.81.1, 1859.90, 1859.103, 1859.104  
 02/03/03 AMEND: 649.11  
 02/03/03 ADOPT: 649.23, 649.24, 649.25  
 01/30/03 ADOPT: 18530.2  
 01/16/03 ADOPT: 18545  
 01/16/03 AMEND: 18703.4, 18730, 18940.2, 18942.1, 18943

01/16/03 AMEND: 18705.1  
 01/16/03 AMEND: 18700  
 01/16/03 ADOPT: 1859.71.2, 1859.78.4, 1859.108 AMEND: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107  
 01/13/03 ADOPT: 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4, 1866.4.6, 1866.4.7, 1866.5.1, 1866.5.2, 1866.5.4, 1866.5.5, 1866.5.6, 1866.5.7, 1866.5.8, 1866.9.1, 1866.12, 1866.13, 1866.14 AMEND: 1866, 1866.1, 1866.2, 1866.3, 1866.4, 1866.5, 1866.5.3, 1866.7, 1866.8, 186  
 01/08/03 ADOPT: 18535  
 12/19/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.218, 1859.219, 1859.220,  
 12/17/02 ADOPT: 599.723.2

**Title 3**

04/15/03 AMEND: 3423(b)  
 04/08/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4, 760.5, 760.6, 760.7, 760.9 REPEAL: 760, 765  
 04/07/03 AMEND: 3417(b)  
 04/03/03 AMEND: 300(c)  
 04/01/03 AMEND: 3417(b)  
 03/26/03 ADOPT: 797  
 03/20/03 AMEND: 3700(c)  
 02/06/03 ADOPT: 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3663.5  
 02/03/03 AMEND: 3700(c)  
 01/28/03 AMEND: 3417(b)  
 01/27/03 AMEND: 3700(C)  
 01/21/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784  
 01/06/03 AMEND: 1380.19(1), 1428.17, 1436.37  
 12/24/02 ADOPT: 1392.12  
 12/12/02 AMEND: 3423(b)  
 12/12/02 AMEND: 3417(b)  
 12/12/02 AMEND: 3417(b)

**Title 4**

04/09/03 AMEND: 1467  
 03/06/03 AMEND: 8072, 8074  
 02/13/03 ADOPT: 10151, 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162

01/27/03 ADOPT: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310 AMEND: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310  
12/12/02 ADOPT: 12100, 12101, 12104, 12105, 12120, 12122, 12124, 12126, 12128, 12130, 12132, 12140, 12142

**Title 5**

04/15/03 AMEND: 18106  
04/14/03 AMEND: 11510, 11512.5(a)(11), 11517 REPEAL: 11510(j)  
04/07/03 ADOPT: 80020.1  
04/03/03 ADOPT: 11971, 11972, 11973, 11974, 11975, 11976, 11977, 11978, 11979, 11980  
03/18/03 AMEND: 20438, 20440  
02/24/03 AMEND: 18301  
02/14/03 ADOPT: 54400  
01/30/03 AMEND: 80043  
01/29/03 AMEND: 31000, 31001, 31003, 31004, 31005, 31006, 31007  
01/27/03 ADOPT: 42397, 42397.1, 42397.2, 42397.3, 42397.4, 42397.5, 42397.6, 42397.7, 42397.8, 42397.9, 42397.10, 42397.11  
01/16/03 ADOPT: 9531, 9532  
01/08/03 ADOPT: 11303, 11304, 11305, 11306, 11307, 11308, 11316 AMEND: 11303, 11304, 11305 REPEAL: 4304, 4306, 4311, 4312  
12/23/02 AMEND: 80054.5, 80020.4.1

**Title 8**

04/09/03 AMEND: 15210  
04/07/03 AMEND: 15251  
03/26/03 AMEND: 3279, 3280  
03/03/03 ADOPT: 17000 REPEAL: 17000  
02/24/03 AMEND: 451, 527  
01/30/03 AMEND: 336  
01/29/03 ADOPT: 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22, 10122.1, 10127.3, 10131.2, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15 AMEND: 10122, 10131, 10133,  
01/28/03 AMEND: 1604.5(c)(3) , 1604.6(a)  
01/21/03 ADOPT: 339.9 AMEND: 339.8.1  
01/09/03 AMEND: 769  
01/09/03 AMEND: 9771, 9771.2, 9771.66, 9772, 9779, 9779.1, 9779.3, 9779.4, 9779.45  
01/09/03 ADOPT: 412.2 AMEND: 403, 404, 405.1, 411, 411.1, 411.2, 418, 420 REPEAL: 407, 407.1, 407.2, 407.3,  
01/08/03 ADOPT: 46.1  
01/06/03 AMEND: 1527  
01/03/03 AMEND: 344.30

12/30/02 ADOPT: 10114.1, 10114.2, 10114.3, 10114.4, 101002, 10103.2, 10106.1, 10107.1, 10111.2, 10113.1, 10113.2, 10113.3, 10113.4, 10113.5, 10113.6 AMEND: 10104, 10105, 10106.5, 10108, 10109, 10113, 10114, 10115.1 REPEAL: 10115.3  
12/30/02 AMEND: 14300.10, 14300.12, 14300.29  
12/19/02 AMEND: 5221, 5223,

**Title 9**

03/25/03 AMEND: 821  
02/20/03 AMEND: 9100  
01/02/03 AMEND: 10355  
12/26/02 ADOPT: 7149.1 AMEND: 7174

**Title 10**

03/27/03 AMEND: 260.211, 260.211.1  
03/20/03 ADOPT: 2700, 2700.1, 2701, 2702  
03/20/03 ADOPT: 2187.4  
03/13/03 ADOPT: 2020, 2021 AMEND: 250.51  
03/10/03 ADOPT: 2175, 2175.1, 2175.2, 2175.3, 2175.4, 2175.5, 2175.6, 2175.7, 2175.8, 2175.9, 2175.10, 2176, 2176.1, 2176.2, 2176.3, 2176.4, 2177, 2177.1, 2177.2, 2177.3, 2177.4, 2177.5, 2177.6, 2177.7, 2177.8., 2177.9, 2177.10, 2177.11, 2177.12, 2177.13, and 2177  
03/10/03 ADOPT: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.6, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24,  
03/06/03 AMEND: 2130.3  
03/04/03 ADOPT: 260.230, 260.230.1, 260.231.2, 260.231.3, 260.236.1, 260.236.2, 260.237.2 AMEND: 260.231, 260.236, 260.237.1, 260.240, 260.241.2, 260.241.3, 260.241.4, 260.242  
02/27/03 ADOPT: 5.6182, 5.6183, 30.30, 30.31, 30.40, 30.41, 30.50, 30.51, 30.60, 30.61, 30.70, 30.71, 30.72, 30.73, 30.105, 30.402, 30.406, 30.500, 30.802, 30.1000 AMEND: 30.101, 30.102, 30.103, 30.300, 30.301, 30.302, 30.304, 30.306, 30.401, 30.403, 30.404  
02/13/03 AMEND: 3200  
02/11/03 AMEND: 2646.6 REPEAL: 2646.7, 2646.8, 2646.9, 2646.10, 2646.11  
01/21/03 AMEND: 2690.1, 2690.2  
01/16/03 AMEND: 2498.6  
01/13/03 ADOPT: 2498.6  
01/02/03 AMEND: 2509.40, 2509.41, 2509.42, 2509.45, 2509.77  
12/31/02 AMEND: 2318.6, 2353.1, and 2354.  
12/26/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.5



12/16/02 ADOPT: 1422, 1423  
 12/12/02 ADOPT: 2699.6606, 2699.6711,  
 2699.6631, 2699.6717 AMEND:  
 2699.6500, 2699.6600, 2699.6605,  
 2699.6607, 2699.6611, 2699.6613,  
 2699.6617, 2699.6623, 2699.6625,  
 2699.6629, 2699.6631, 2699.6700,  
 2699.6703, 2699.6705, 2699.6709,  
 2699.6800, 2699.6801, 2699.680  
 12/12/02 AMEND: 2632.8

**Title 11**

04/07/03 AMEND: 1005, 1052, D-2  
 04/03/03 ADOPT: 977.52 AMEND: 977.20,  
 977.43, 977.44, 977.45 977.50, 977.51  
 02/06/03 AMEND: 1005, 1070, 1082  
 02/03/03 AMEND: 1081(a)(31), 1081(a)(32)  
 01/17/03 ADOPT: 3100, 3101, 3102, 3103, 3200,  
 3201, 3203, 3204 AMEND: 3000, 3001,  
 3002, 3003, 3007, 3008

**Title 13**

04/16/03 AMEND: 1956.8  
 04/14/03 AMEND: 2412(b)  
 03/03/03 ADOPT: 225.00, 225.06, 225.12, 225.15,  
 225.21, 225.24, 225.27, 225.30, 225.33,  
 225.39, 225.48, 225.57, 225.60, 225.66,  
 and 225.69 AMEND: 225.03, 225.09,  
 225.18, 225.36, 225.42, 225.45, 225.51,  
 225.54, 225.63, and 225.72  
 02/21/03 AMEND: 110.04  
 02/18/03 REPEAL: 260.01, 262.00, 262.05  
 02/06/03 AMEND: 55.17  
 02/04/03 ADOPT: 551.14, 551.15, 551.16, 551.17  
 AMEND: 553.40, 595  
 01/03/03 ADOPT: 2606 AMEND: 2601, 2602,  
 2603, 2604, 2605, 2606, 2607, 2608,  
 2609, 2610  
 12/24/02 AMEND: 2261, 2262, 2262.4, 2262.5,  
 2262.6, 2262.9, 2265, 2266.5, 2269,  
 2271, 2272, 2296

**Title 14**

04/15/03 ADOPT: 3704.1  
 04/15/03 ADOPT: 1.39, 1.49, 27.83 AMEND:  
 27.82  
 04/14/03 ADOPT: 1.92 AMEND: 671, 671.1  
 04/08/03 AMEND: 791.7  
 04/07/03 ADOPT: 4970.09 AMEND: 4970.00,  
 4970.01, 4970.02, 4970.03, 4970.04,  
 4970.05, 4970.06, 4907.07, 4970.08,  
 4970.10, 4970.11, 4970.12, 4970.13,  
 4970.14, 4970.15, 4970.16, 4970.17,  
 4970.18, 4970.19, 4970.20, 4970.21,  
 4970.22, 4970.23, 4970.24, 4970.25,  
 4970.2

04/04/03 ADOPT: 17211, 17211.1, 17211.2,  
 17211.3, 17211.4, 17211.5, 17211.6,  
 17211.7, 17211.8, 17211.9  
 04/04/03 ADOPT: 17853.0, 17854, 17588.2,  
 17855.4, 17857.1, 17859.1, 17863.4,  
 17867.5, 17868.5, 18227 AMEND:  
 17850, 17852, 17855, 17862, 17862.1,  
 17863, 17865, 17866, 17867, 17868.1,  
 17868.2, 17868.3, 17869, 17870, 18103.1  
 REPEAL: 17857, 17858, 17859, 17860,  
 178  
 04/01/03 ADOPT: 17225.710, 17225.717,  
 1225.720, 17225.725, 17225.750,  
 17225.755, 17225.760, 17225.770,  
 17225.795, 17225.800, 17225.820,  
 18478.5, 18494.5, 18499.1, 18499.2,  
 18499.3, 18499.4, 18499.5, 18499.6,  
 18499.7, 18499.8, 18499.9 AMEND:  
 17225.715, 17350, 173  
 04/01/03 AMEND: 2090, 2105, 2420, 2425, 2530,  
 2690, renumber 2690 to 2850  
 03/27/03 AMEND: 708  
 03/26/03 AMEND: 150.02, 150.04  
 03/26/03 AMEND: 120, 120.3  
 03/10/03 ADOPT: 632 AMEND: 630  
 03/10/03 ADOPT: 150.05 AMEND: 150, 150.03  
 03/06/03 AMEND: 18464, 18465  
 03/05/03 ADOPT: 18360, 18361, 18362, 18363,  
 18364, 18365, 18366, 18367, and 18368  
 03/04/03 AMEND: 180.2  
 03/04/03 ADOPT: 749.2  
 03/04/03 ADOPT: 15251  
 02/27/03 ADOPT: 105.5 AMEND: 195  
 02/11/03  
 02/03/03 AMEND: 120.3  
 01/28/03 ADOPT: 6593, 6593.1, 6593.2, 6593.3,  
 6593.4, 6593.5, 6593.6, 6593.7, 6593.8,  
 6593.9, 6593.10, 6593.11  
 01/21/03 ADOPT: 14120 AMEND: 14101, 14102,  
 14111, 14112, 14113, 14115, 14116  
 01/17/03 AMEND: 180.15  
 01/09/03 ADOPT: 52.00, 52.01, 52.02, 52.03,  
 52.04, 52.05, 52.09 AMEND: 150.16,  
 150.17  
 01/07/03 AMEND: 630  
 01/03/03 ADOPT: 1.91 AMEND: 1.90, 27.60,  
 27.82, 28.27, 28.28, 28.29, 28.54, 28.55,  
 28.58  
 12/31/02 AMEND: 150.06(a)  
 12/30/02 AMEND: 150.16  
 12/30/02 AMEND: 150.06, 150.16  
 12/30/02 AMEND: 670.2  
 12/26/02 AMEND: 670.2  
 12/19/02 AMEND: 11900 and 11901  
 12/19/02 AMEND: 11900  
 12/18/02 ADOPT: 3704.1

**Title 15**

04/15/03 REPEAL: 3901.1, 3901.1.2, 3901.3.1, 3901.5.1, 3901.5.2, 3901.5.3, 3901.5.4, 3901.5.5, 3901.5.6, 3901.7.1, 3901.7.2, 3901.7.3, 3901.9.2, 3901.9.3, 3901.9.5, 3901.9.6, 3901.11.1, 3901.13.1, 3901.13.2, 3901.13.3, 3901.15.1, 3901.15.2, 3901.15.3, 3901.15.4,  
04/08/03 AMEND: 3025, 3315  
03/18/03 AMEND: 3006  
03/06/03 ADOPT: 3375.5 AMEND: 3000, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3377  
02/18/03 ADOPT: 3054.2(e)(2)(H), 3170, 3170.1, 3171, 3172, 3172.1, 3172.2, 3173, 3173.1, 3173.2, 3174, 3175, 3176, 3176.1, 3176.2, 3176.3, 3176.4, 3177, 3178, 3179 AMEND: 3045.2(e)(2)(F)  
REPEAL: 3170, 3170.5, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179  
01/21/03 AMEND: 3075.2

**Title 16**

04/14/03 AMEND: 109, 111  
04/08/03 AMEND: 2070, 2071  
04/08/03 AMEND: 1017  
04/07/03 ADOPT: 3504.5  
04/07/03 AMEND: 1381, 1390, 1397.64  
03/13/03 AMEND: 1807.2  
03/13/03 AMEND: 404  
03/06/03 AMEND: 1393  
03/03/03 AMEND: 1397.12  
03/03/03 AMEND: 3340.1  
02/18/03 AMEND: 87, 89.1  
02/13/03 AMEND: 1399.508  
02/11/03 AMEND: 1720.1  
02/11/03 AMEND: 1388, 1392  
02/10/03 AMEND: 1717, 1745  
02/06/03 AMEND: 1082.1  
01/29/03 AMEND: 2542, 2542.1, 2547, and 2547.1  
01/23/03 ADOPT: 1399.153.10 AMEND: 1399.153, 1399.153.1, 1399.153.2, 1399.153.3, 1399.153.4, 1399.153.5, 1399.153.6, 1399.153.7 1399.153.8, 1399.153.9,  
01/21/03 ADOPT: 1356.6  
01/21/03 AMEND: 3340.42 REPEAL: 3340.42.1  
01/15/03 ADOPT: 118.5 AMEND: 109, 116, 117, 121  
01/07/03 AMEND: 1399.660, 1399.664  
01/06/03 AMEND: 1399.85  
12/31/02 ADOPT: 811  
12/24/02 AMEND: 1399.25, 1399.26, 1399.27, 1399.28, 1399.29  
12/24/02 REPEAL: 1382.1  
12/23/02 REPEAL: 1387, 1387.3, and 1387.5  
12/23/02 ADOPT: 1398.52 AMEND: 1398.37

12/23/02 AMEND: 1399.10, 1399.12  
12/19/02 AMEND: 1398.3, 1398.20, 1398.21.1, 1398.28, 1398.42, 1398.47, 1399.12, 1399.20, 1399.21, 1399.22, 1399.52  
12/16/02 ADOPT: 1435.15 AMEND: 1435, 1435.2, 1435.3, 1435.5, 1435.6  
12/16/02 ADOPT: 1937.17 AMEND: 1996, 1996.2  
12/12/02 AMEND: 2310(a)(b)

**Title 17**

04/14/03 ADOPT: 13676 AMEND: 13675  
03/13/03 ADOPT: 1031.2, and 1031.3  
03/13/03 AMEND: 94011  
02/27/03 AMEND: 6020, 6025, 6035, 6050, 6051, 6065, 6070, 6075  
02/27/03 AMEND: 60201  
02/25/03 ADOPT: 6903 (b)  
02/10/03 ADOPT: 30315.10, 30315.20, 30315.22, 30315.23, 30315.24, 30315.33, 30315.34, 30315.35, 30315.36, 30315.50, 30315.51, 30315.52, 30315.60, 30316, 30316.10, 30316.20, 30316.22, 30316.30, 30316.40, 30316.50, 30316.60, 30316.61, 30317, 30317.10, 30317.20, 303  
02/03/03 ADOPT: 93113  
01/14/03 AMEND: 50413, 50425, 50753, 50766, 50810, 54355, 57210, 57433, 58033  
01/14/03 AMEND: 52000, 52082, 52084, 52109, 52170, 52171, 52173, 52175  
01/09/03 ADOPT: 1029.31, 1029.32, 1029.33, 1029.34, 1029.108, 1029.116, 1029, 124, 1029.132, 1029.133, 1029.154, 1029.195, 1031.7, 1034, and 1035.1 AMEND: 1031.4, 1031.5 REPEAL: 1034, 1034.1  
12/19/02 AMEND: 57332

**Title 18**

04/09/03 AMEND: 24411  
03/25/03 ADOPT: 19032  
03/13/03 AMEND: 6001  
02/04/03 AMEND: 122.5  
02/04/03 AMEND: 1616  
02/04/03 ADOPT: 2570 AMEND: 2500, 2538, 2552  
01/23/03 ADOPT: 17053.36, 10753.37, 23636, 23637  
01/23/03 ADOPT: 1807  
01/21/03 AMEND: 25137-2  
01/15/03 AMEND: 904  
01/14/03 AMEND: 21(e)(1)(A)  
01/09/03 AMEND: 23334

**Title 19**

02/25/03 AMEND: 1.05, 1.07, 3.08, 3.23, 3.25, 3.26, 3.29, 3.32

02/04/03 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2, 2578.3  
 12/19/02 AMEND: 2900, 2910, 2915, 2925, 2930, 2940, 2945, 2955, 2965, 2970, 2980, 2990

**Title 20**

04/08/03 ADOPT: 1237 AMEND: 1231, 1232, 1768, 1769  
 04/01/03 AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.3, 1606, 1607, 1608

**Title 21**

02/03/03 ADOPT: 3570

**Title 22**

04/10/03 ADOPT: 51509  
 04/08/03 AMEND: 1256-9, 1253.12-1, 1030(a)-1  
 04/04/03 AMEND: 51319, 51507.2, 51515, 51517, 51521  
 04/03/03 ADOPT: 64806  
 04/01/03 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30  
 04/01/03 AMEND: 51215.6  
 04/01/03 AMEND: 926-3, 926-4, 926-5  
 03/26/03 ADOPT: 69000, 69000.5, 69001, 69002, 69003, 69004, 69005, 69006, 69007, 69008, 69009, 69010, 69011, 69012, 69013  
 03/24/03 ADOPT: 110449, 110554, 118020 AMEND: 110385, 12-229, 12-300, 12-302  
 03/20/03 ADOPT: 67391.1  
 02/27/03 ADOPT: 51008.1 AMEND: 51104, 51515, 51520, 51521  
 02/25/03 AMEND: 12705, 12805  
 02/20/03 AMEND: 100177  
 02/19/03 AMEND: 12306  
 02/13/03 ADOPT: 66260.10, 66260.22, 66261.50, 66273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.7, 66273.7.8, 66273.7.9, 66273.10, 66273.21, 66273.41 AMEND: 66261.1, 66261.3, 66261.6, 66261.9, 66261.101, 66262.11, 66264.1, 66265.1, 66268.1, 66270.1  
 02/10/03 ADOPT: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107  
 02/03/03 ADOPT: 1111560  
 02/03/03 ADOPT: 66260.22, 66260.23, 66273.3, 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, 66273.90 AMEND: 66261.9, 66264.1, 66265.1, 66268.1, 66270.1, 66273.1, 66273.4, 66273.8, 66273.9, 66273.13,

02/03/03 ADOPT: 51200.01 AMEND: 51000.4, 51000.30, 51000.45, 51000.50, 51000.55, 51200, 51451

01/27/03 AMEND: 51510, 515110.1, 51510.2, 51510.3, 515111, 51511.5, 515111.6, 51532.3, 51535, 51535.1, 51544, 54501

01/24/03 AMEND: 84001, 84022, 84061, 84063, 84065, 84800, 84801, 84802, 84802.1, 84803, 84804, 84805, 84806, 84807, 84808

01/21/03 AMEND: 51516.1

01/13/03 ADOPT: 100040, 100041, 100031, 100039, 100042 100043, AMEND: 100031, 100032, 100033, 10034, 100035, 100036, 100038, 100040, 100041 RE-PEAL: 100037, 100039, 100043

01/07/03 ADOPT: 12203, 12204 AMEND: 12102, 12302, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12601, 12701, 12709, 12711, 12721, 12808, 12803, 12805, 12821, 12901, 12902, 12903, 14000 REPEAL: 12103, 12104, 12201, 12301

12/24/02 AMEND: 51503, 51503.2, 51504, 51505.2, 51505.3, 51507, 51507.1, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51529, 51535.5

12/23/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12

12/23/02 ADOPT: 64860

**Title 22, MPP**

04/09/03 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 87010, 87010.1, 87010.2, 87017, 87018, 87019, 87019.1, 89221, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 8

04/03/03 ADOPT: 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132,

**Title 23**

04/14/03 AMEND: 3955

04/01/03 AMEND: 648

04/01/03 AMEND: 2521

03/11/03 ADOPT: 3717

02/25/03 AMEND: 20164, 21110, 21570, 21640, 21685, 21780, 21860, 21865, 21870, 21880  
 02/25/03 AMEND: 499.1, 499.2, 499.3, 499.4, 499.5, 499.6, 499.6.1, 499.6.2, 499.7, and 499.8  
 01/13/03 ADOPT: 3963  
 12/19/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5  
 12/17/02 ADOPT: 3913

**Title 28**

02/18/03 ADOPT: 1300.74.30  
 12/17/02 ADOPT: 1300.67.60  
 12/16/02 ADOPT: 1300.89

**Title MPP**

04/09/03 AMEND: 19-001, 19-004.412, 19-004.412(a), renumber 19-004.9 to 19-004.42, 19-004.62, 19-005.21, 19-007.1, 20-300.32, 20-300.33  
 04/09/03 AMEND: 40-107.14, 40-107.15, 42-301.2, 42-302.1, 42-302.2, 42-0302.3, 44-133.5, 44-133.8, 44-352.1, 88-832, 88-833.1  
 03/27/03 AMEND: 40-187, 40-188, 40-190, 63-801  
 03/27/03 AMEND: 44-315, 89-201  
 03/25/03 AMEND: 63-405  
 03/13/03 AMEND: 11-402

03/10/03 AMEND: 63-403.1, 63-405.134, 63-409.122, and 63-502.31  
 02/27/03 AMEND: 46-430.1, 46-430.2, 46-430.3, 46-430.4, 46-430.5 REPEAL: 46-430.42  
 02/18/03 AMEND: 31-001, 31-002, 31-075, 31-401, 31-410, 31-420, 31-440, 31-445  
 02/13/03 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, 16-801  
 AMEND: 20-300, 44-3  
 01/23/03 AMEND: 40-181.1(e), 42-710.6, 42-711.5, 42-711.6, 42-711.8, 42-721.1, 42-721.4, 44-314.1, 44-314.2, 80-301(r), 82-812.6  
 01/23/03 AMEND: 49-020  
 01/14/03 ADOPT: 16-705  
 01/14/03 ADOPT: 11-404, 11-406 AMEND: 11-400, 11-402, 11-403, 11-405  
 12/24/02 AMEND: 84001, 84022, 84061, 84063, 84065, 84800, 84801, 84802, 84802.1, 84808, 84805, 84803, 84804, 84806, 84807  
 12/19/02 AMEND: 45-101, 45-201, 45-202, 45-203, 45-302, 45-304, 80-310

